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

WHEN: Tuesday, July 14, 2009
9:00 a.m.–12:30 p.m.

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

RESERVATIONS: (202) 741–6008

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Reader Aids
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CFR PARTS AFFECTED IN THIS ISSUE

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

Rules and Regulations

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

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

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2008–0759; Directorate Identifier 2008–NE–02–AD; Amendment 39–15824; AD 2009–04–18]

RIN 2120–AA64

Airworthiness Directives; Pratt & Whitney (PW) JT9D–7 Series Turbofan Engines; Correction

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; correction.

SUMMARY: The FAA is correcting airworthiness directive (AD) 2009–04–18, which was previously published in the **Federal Register**. That AD applies to PW models JT9D–7, –7A, –7AH, –7H, –7F, and –7J turbofan engines. The two references to the engine manual in paragraph (h) and in Table 1, are incomplete. This document corrects those references. In all other respects, the original document remains the same.

DATES: *Effective Date:* Effective June 25, 2009.

FOR FURTHER INFORMATION CONTACT: Kevin Dickert, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803; *e-mail: kevin.dickert@faa.gov;* telephone (781) 238–7117; fax (781) 238–7199, for more information about this AD.

SUPPLEMENTARY INFORMATION: On March 31, 2009 (74 FR 14458), we published a final rule AD, FR Doc, E9–6749, in the **Federal Register**. That AD applies to PW models JT9D–7, –7A, –7AH, –7H, –7F, and –7J turbofan engines. We need to make the following corrections:

§ 39.13 [Corrected]

■ On page 14459, in Table 1, in the first column, in the second line, ''770408'' is corrected to read ''770408, Section 72–51–00, Assembly–02''.

■ On page 14459, in the third column, in paragraph (h), in the third line, ''1.B.(32) of the JT9D–7 Engine Manual'' is corrected to read ''1.B.(32) of Section 72–51–00, Assembly–02 of the JT9D–7 Engine Manual''.

Issued in Burlington, Massachusetts, on June 17, 2009.

Carlos Pestana,

Acting Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. E9–14810 Filed 6–24–09; 8:45 am]

BILLING CODE 4910–13–P

SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 210 and 229

[Release Nos. 33–8934A; 34–58028A; File No. S7–06–03]

RIN 3235–AJ64

Technical Amendment; Internal Control Over Financial Reporting in Exchange Act Periodic Reports of Non-Accelerated Filers

AGENCY: Securities and Exchange Commission.

ACTION: Final rules; technical amendment.

SUMMARY: We are extending the effectiveness of § 210.2–02T published in 71 FR 47059 (August 15, 2006) and § 229.308T published in 71 FR 76595 (December 21, 2006) and amended in 73 FR 38099 (July 2, 2008) through June 30, 2010. The effective dates for the other sections of the July 2, 2008 document remain as published.

DATES: *Effective Date:* The effectiveness of §§ 210.2–02T and 229.308T, which currently terminates on June 30, 2009, is extended through June 30, 2010.

FOR FURTHER INFORMATION CONTACT: Sean Harrison, Special Counsel, Office of Rulemaking, Division of Corporation Finance, at (202) 551–3430, U.S. Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–3628.

SUPPLEMENTARY INFORMATION: This technical amendment does not affect the effective date for compliance by a non-accelerated filer with the rules implementing Section 404(b) of the Sarbanes-Oxley Act of 2002. Under the amendments previously adopted in Release No. 33–8934, a non-accelerated filer is required to file the auditor's attestation report on internal control over financial reporting when it files an annual report for a fiscal year ending on or after December 15, 2009. The sole purpose of this technical amendment is to provide that the amendments previously adopted in Release No. 33–8934 that currently are set forth in paragraph (b) of Rule 2–02T in Regulation S–X and in paragraph (c) of Item 308T of Regulation S–K remain in the CFR.

Dated: June 22, 2009.

Elizabeth M. Murphy,

Secretary.

[FR Doc. E9–15014 Filed 6–24–09; 8:45 am]

BILLING CODE P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 129 and 165

[Docket No. FDA–2008–N–0446]

Beverages: Bottled Water; Correction

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule; correction.

SUMMARY: The Food and Drug Administration (FDA) is correcting a final rule that appeared in the **Federal Register** of Friday, May 29, 2009 (74 FR 25651). The final rule was published with an inadvertent error in the ''Analysis of Impacts'' section. This document corrects that error.

DATES: This correction is effective: June 25, 2009.

FOR FURTHER INFORMATION CONTACT: Lauren Posnick Robin, Center for Food Safety and Applied Nutrition (HFS–317), Food and Drug Administration, 5100 Paint Branch Pkwy., College Park, MD 20740–3835, 301–436–1639.

SUPPLEMENTARY INFORMATION: In FR Doc. E9–12494, appearing on page 25651 in the **Federal Register** of Friday, May 29, 2009, the following correction is made:

On page 25656, in the third column, in the first complete paragraph,

beginning in the fifth line, the sentence ''Because the costs per entity of this rule are small, the agency certifies that the final rule will not have a significant economic impact on a substantial number of small entities.'' is corrected to read ''Because the costs per entity of this rule are small, the agency believes that the final rule will not have a significant economic impact on a substantial number of small entities.''

Dated: June 19, 2009.

Jeffrey Shuren,

Associate Commissioner for Policy and Planning.

[FR Doc. E9–14981 Filed 6–24–09; 8:45 am]

BILLING CODE 4160–01–S

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Parts 4001, 4901, and 4902

[Docket No. FR Doc E9–13323]

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

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Final rule; correction.

SUMMARY: The Pension Benefit Guaranty Corporation (PBGC) is correcting a final rule that appeared in the **Federal Register** of June 8, 2009 (74 FR 27080). The document amends PBGC's regulation on Disclosure and Amendment of Records Pertaining to Individuals Under the Privacy Act.

DATES: Effective July 8, 2009.

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

SUPPLEMENTARY INFORMATION: In FR Doc. E9–13323 published on June 8, 2009 (74 FR 27080) the following corrections are made:

1. On page 27081, in the first column, in the preamble text under the heading Regulatory Changes, the last sentence of the first paragraph is corrected to read as follows: ''PBGC received no comments on the proposed rule and the final regulation is unchanged from the proposed regulation, except that under the final regulation, an appeal from a denial of a request for amendment of a record maintained by the Office of the General Counsel will be handled by the Director or the Director's designee.

2. On page 27081, in the first column, in the preamble text under the heading Regulatory Changes, the last sentence of the third paragraph is corrected to read as follows: ''PBGC also is replacing all references to the term ''Deputy Executive Director'' in part 4902 with the term ''Director or Director's designee''.

§ 4902.7 [Corrected]

■ 3. On page 27082, in the first column, in PART 4902—DISCLOSURE AND AMENDMENT OF RECORDS PERTAINING TO INDIVIDUALS UNDER THE PRIVACY ACT, amendment 12 is corrected to read as follows:

■ ''12. Section 4902.7 is amended:

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

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

Issued in Washington, DC, this 22nd day of June 2009.

Vincent K. Snowbarger,

Acting Director, Pension Benefit Guaranty Corporation.

[FR Doc. E9–14975 Filed 6–24–09; 8:45 am]

BILLING CODE 7709–01–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[DOD–2009–OS–0021; RIN 0790–AI43]

32 CFR Part 65

Post-9/11 GI Bill

AGENCY: Office of the Under Secretary of Defense for Personnel and Readiness/ Office of the Deputy Under Secretary of Defense for Military Personnel Policy, DoD.

ACTION: Interim final rule.

SUMMARY: This part establishes policy, assigns responsibilities, and prescribes procedures for carrying out the Post-9/11 GI Bill. It establishes policy for the use of supplemental educational assistance ''kickers'', for members with critical skills or specialties, or for members serving additional service; for authorizing the transferability of education benefits; and for the DoD Education Benefits Fund Board of Actuaries.

The prompt implementation of the Interim Final Rule is of critical importance. It will procedurally close existing gaps in the implementation of the Post-9/11 Veterans Educational Assistance Act of 2008, title V, Public Law 110–252 (the ''Post-9/11 GI Bill''), and ensure that key benefits provided for in the Post-9/11 GI Bill become available to military personnel by the date mandated by Congress.

Because of the complexity of implementing this provision throughout the Department of Defense, which will require each military branch to communicate its own administrative procedures to the military members for transferring their educational benefits, the need for overarching policy guidance is critical. In addition, Department of Defense policy is required to support the companion implementing rules from the Department of Veterans Affairs, which are already in place.

The Administration has expressed considerable interest in making this valuable benefit available to military personnel as quickly as possible. With a new academic year beginning in this autumn, it is critical that the Department of Defense begin immediately the complicated task of implementing administrative procedures and informing the military community about this program. Implementing this policy through an Interim Final Rule will make this possible.

DATES: This rule is effective June 25, 2009. Comments must be received by July 27, 2009.

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

- *Federal Rulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Federal Docket Management System Office, 1160 Defense Pentagon, OSD Mailroom 3C843, Washington, DC 20301–1160.

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

FOR FURTHER INFORMATION CONTACT: Robert Clark, (703) 697–9267.

SUPPLEMENTARY INFORMATION:

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

It has been certified that 32 CFR part 65 does not:

(1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy; a section of the economy; productivity; competition; jobs; the environment; public health or safety; or State, local, or tribal governments or communities;

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

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

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

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

It has been certified that 32 CFR part 65 does not contain a Federal mandate that may result in expenditure by State, local and tribal governments, in aggregate, or by the private sector, of $100 million or more in any one year.

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

It has been certified that 32 CFR part 65 is not subject to the Regulatory Flexibility Act (5 U.S.C. 601) because it would not, if promulgated, have a significant economic impact on a substantial number of small entities.

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

It has been certified that 32 CFR part 65 does not impose reporting or recordkeeping requirements under the Paperwork Reduction Act of 1995.

Executive Order 13132, ''Federalism''

It has been certified that 32 CFR part 65 does not have federalism implications, as set forth in Executive Order 13132. This rule does not have substantial direct effects on:

(1) The States;

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

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

List of Subjects in 32 CFR Part 65

Armed forces, Education.

■ Accordingly 32 CFR part 65 is added to read as follows:

PART 65—POST-9/11 GI BILL

Sec.

Authority: 38 U.S.C., chapter 33

§ 65.1 Purpose.

This part:

(a) Establishes policy, assigns responsibilities, and prescribes procedures under chapter 33 of title 38, United States Code (U.S.C.) for carrying out the Post-9/11 GI Bill.

(b) Establishes policy for the use of supplemental educational assistance (hereafter referred to as ''kickers'') for members with critical skills or specialties, or for members serving additional service under section 3316 of title 38, U.S.C.

(c) Establishes policy for authorizing the transferability of education benefits (TEB) in accordance with section 3319 of title 38, U.S.C.

(d) Assigns responsibility to the Department of Defense Board of Actuaries to review valuations of the Department of Defense Education Benefits Fund in accordance with sections 183 and 2006 of title 10, U.S.C.

§ 65.2 Applicability.

(a) This part applies to the Office of the Secretary of Defense, the Military Departments (including the Coast Guard at all times, including when it is a Service in the Department of Homeland Security (DHS) by agreement with the Department).

(b) The term ''Military Services,'' as used herein, refers to the Army, the Navy, the Air Force, the Marine Corps, and the Coast Guard.

§ 65.3 Definitions.

Active Duty. Defined in section 101(21)(A) of title 38, U.S.C. for Members of the regular components of the Armed Forces. Defined in section 688, 12301(a), 12301(d), 12301(g), 12302, or 12304 of title 10, U.S.C. for Members of the Reserve Components of the Armed Forces.

EATP. The Educational Assistance for Persons Enlisting for Active Duty program, chapter 106A (formerly 107) of title 10, U.S.C.

Entry Level and Skill Training. (1) In the case of members of the Army, Basic Combat Training and Advanced Individual Training, which includes members attending One Station Unit Training (OSUT).

(2) In the case of members of the Navy, Recruit Training (or Boot Camp) and Skill Training (or so-called 'A' School).

(3) In the case of members of the Air Force, Basic Military Training and Technical Training.

(4) In the case of members of the Marine Corps, Recruit Training and Marine Corps Training (or School of Infantry Training).

(5) In the case of members of the Coast Guard, Basic Training.

Family Member. For the purpose of this part, a spouse or child enrolled in the Defense Enrollment Eligibility Reporting System (DEERS).

Kickers. Supplemental educational assistance paid to an eligible Service member besides the basic educational assistance, because of the individual's qualifying service, as in section 3316 of title 38, U.S.C.

Institution of Higher Learning (IHL). A training institution as defined in section 3452(f) of title 38, U.S.C., and approved for purposes of chapter 30 of title 38, U.S.C., (including approval by the State approving agency concerned).

Member of the Armed Forces. For the purposes of this part, those individuals on active duty or in the Selected Reserve. Does not include other members of the Ready Reserve (such as the Individual Ready Reserve, standby Reserve, or retired members of the Armed Forces.)

MGIB. The All-Volunteer Force Education Assistance Program, Chapter 30 of title 38, U.S.C.

MGIB–SR. The Educational Assistance for Members of the Selected Reserve program, Chapter 1606 of title 10, U.S.C.

Post-9/11 GI Bill. The Post-9/11 Educational Assistance Program, Chapter 33 of title 38, U.S.C.

REAP. The Reserve Educational Assistance Program, Chapter 1607 of title 10, U.S.C.

Secretary of the Military Department concerned. For a member of the Army, the Navy, the Air Force, the Marine Corps, and the Coast Guard when it is operating as a Service of the Department of the Navy, the term means the Secretary of the Military Department with jurisdiction over that Service member. For a member of the Coast Guard, when the Coast Guard is operating as a Service of the DHS, the term means, ''the Secretary of Homeland Security has jurisdiction over that Service member.''

§ 65.4 Policy.

It is DoD policy:

(a) That ''kickers'' may be authorized to assist in the recruitment and

retention of individuals into skills or specialties in which there are critical shortages or for which it is difficult to recruit, or in the case of units, retain personnel.

(b) That transferability of unused educational benefits be used by the Military Services to promote recruitment and retention.

(c) That the Secretary of Defense may limit the months of the entitlement that may be transferred to no less than 18 months, as specified in section 3319 of title 38, U.S.C., if needed to manage force structure and force shaping.

§ 65.5 Responsibilities.

(a) The Deputy Under Secretary of Defense for Military Personnel Policy (DUSD(MPP)), under the authority, direction, and control of the Under Secretary of Defense for Personnel and Readiness, shall:

(1) Develop procedures to implement policy for the Post-9/11 GI Bill authorized by chapter 33 of title 38, U.S.C.

(2) Coordinate administrative procedures with the Department of Veterans Affairs (DVA), as applicable.

(3) Review and approve each Military Department plan to use supplemental assistance under the provisions of section 3316 of title 38, U.S.C.

(4) Establish the standard data elements needed to administer the Post-9/11 GI Bill Program.(see Appendix A to this part).

(b) The Under Secretary of Defense (Comptroller)/Chief Financial Officer (USD(C/CFO)) shall:

(1) Provide guidance on budgeting, accounting, and funding for the educational benefits program in support of policies established in § 65.6(b) of this part, and for investing the available DoD Education Benefits Fund balance.

(2) In coordination with the DUSD (MPP), review and approve the Military Department budget estimates for the supplemental payments under the provisions of section 3316 of title 38, U.S.C.

(c) The Secretaries of the Military Departments shall:

(1) Provide regulations, policy implementation guidance, and instructions governing the administration of the GI Bill program established under chapter 33 of title 38, U.S.C. consistent with this DTM and other guidance issued by the DUSD(MPP) and USD(C)/CFO consistent with the needs of the Military Services. Regulations must include Service implementation of kickers and the transfer of unused educational benefits as established in section 3319 of title 38, U.S.C., as outlined in § 65.6 of this part.

(2) Ensure that all eligible active duty members and members of the Reserve Components are aware that they are eligible for educational assistance under the Post-9/11 GI Bill program upon serving the required active duty time as established in Chapter 33 of title 38, U.S.C.

(3) Advise all officers without earlier established eligibility, following commissioning through Service Academies, with the exception the U.S. Coast Guard Academy, or Reserve Officer Training Corps (ROTC) Scholarship Programs, that their eligibility for benefits does not begin until they have completed their statutory obligated active duty service. Any active duty service after that obligated period of service may qualify and entitle the Service member to accrue active duty service for the Post-9/11 GI Bill eligibility.

(4) Ensure that Service members participating in the student loan repayment program under chapter 109 of title 10, U.S.C., receive counseling on qualification for the Post-9/11 GI Bill program and understand that their service commitment due to such participation does not count as qualifying active duty service. Any service after that obligated period of service may qualify and entitle the Service member to accrue active duty service for Post-9/11 GI Bill eligibility.

(5) Determine the need for Supplemental Educational Assistance (Kickers) for recruitment and retention of individuals with special skills under section 3316 of title 38, U.S.C., and submit plans to the DUSD(MPP) for approval. That submission shall include justification for providing benefits to those skills, identification of skills for which benefits shall be offered, other special incentives offered in those skills, estimated number of participants, costs, and eligibility requirements.

(6) Budget for and transfer funds to support the Supplemental Educational Assistance (Kickers), in accordance with § 65.6 of this part and guidance issued by the USD(C)/CFO.

(7) Provide active duty participants and members of the Reserve Components with qualifying active duty service individual pre-separation or release from active duty counseling on the benefits under the Post-9/11 GI Bill and document accordingly.

(8) Maintain records for individuals who participate in supplemental educational assistance programs under section 3316 of title 38, U.S.C. Ensure that records on that participation are provided to the Defense Manpower Data Center (DMDC) and the DVA.

(9) Use DoD standard data elements and codes established by DoD Instruction 1336.5 (available at *http://www.dtic.mil/whs/directives/corres/pdf/133605p.pdf*) and DoD Instruction 7730.54 (available at *http://www.dtic.mil/whs/directives/corres/pdf/773054p.pdf*) and listed in Table 1 of Appendix A to this part, when specified. A Military Service failing to comply either with the coding instructions or with codes registered in the DoD Data Element Program shall be responsible for the conversion costs in accomplishing data interchange.

§ 65.6 Procedures.

(a) *General*—(1) *Eligibility.* The Department of Veterans Affairs is responsible for determining eligibility for education benefits under the GI Bill. Generally, to be eligible for the GI Bill, individuals must serve on active duty on or after September 11, 2001, for at least 30 continuous days with a discharge due to a service-connected disability; or an aggregate period ranging from 90 days to 36 months or more. See § 65.7 of this part for specific requirements.

(2) *Educational Assistance Benefits.* (i) Benefits under the GI Bill are based on a percentage, as determined by a Service Member's aggregate length of active duty service.

(A) Amount of tuition and fees charged, not to exceed the most expensive in-State undergraduate tuition and fees at a public institution of higher learning (tuition and fees paid directly to the school);

(B) Monthly stipend equal to the basic allowance for housing (BAH) amount payable to a military E–5 with dependents, in the same ZIP code as the school that the student is attending (paid to the individual);

(C) Yearly books and supplies stipend of up to $1000 per year (paid to the individual on a quarter, semester, or term basis, as appropriate); and

(D) A one-time payment of $500 may be payable to certain individuals relocating from highly rural areas (paid to the individual).

(ii) ''Kickers'', for those who are eligible, will be paid to the individual in conjunction with, and only when receiving, the monthly stipend.

(iii) The monthly stipend and the books and supplies stipend are not payable to individuals on active duty.

(iv) The monthly stipend allowance is not payable for those pursuing education and/or training at half time or less or to some individuals taking distance learning. Individuals enrolled

at half time or less are eligible for an appropriately reduced stipend for books and supplies. The DVA will determine under what, if any, circumstances an individual will be eligible for the monthly stipend while undertaking distance learning.

(v) Post-9/11 GI Bill benefits are subject to change based on legislative changes. The benefits are different for educational programs pursued on a full-time basis or at an applicable reduced rate determined by the Secretary of Veterans Affairs for less than full-time enrollment.

(vi) Post-9/11 GI Bill benefits may be used for an approved program of education offered by an Institution of Higher Learning (IHL) This includes graduate and undergraduate training, and some vocational/technical training programs. DVA is the final authority on program eligibility.

(vii) Individuals may receive tutorial assistance (up to $100 per month, not to exceed a total of $1,200) and reimbursement of one licensing and certification test (not to exceed a total of $2,000).

(viii) Additionally, individuals who were eligible for MGIB, MGIB–SR, or REAP, and elect to use benefits under the GI Bill will be eligible to receive benefits for programs approved under those provisions but not offered by IHLs, such as on-the-job training, apprenticeship training, correspondence courses, flight training, preparatory courses, and national exams at the benefit rate for MGIB, MGIB–SR, or REAP, as appropriate.

(3) *Benefits for Individuals Pursuing Education on Active Duty.* Educational assistance is payable under the Post-9/11 GI Bill Program for pursuit of an approved program of education while on active duty.

(i) The amount of educational assistance payable shall be the lesser of the amount of assistance authorized in the manner specified under section 3014(b)(1) of title 38, U.S.C., or the established institutional charges for tuition and fees required in similar circumstances of non-veterans enrolled in the same program.

(ii) Concurrent Use of Post-9/11 GI Bill and Tuition Assistance (commonly called ''Top Up''). In accordance with section 3313(e) of title 38, U.S.C., a Service member entitled to basic educational assistance who is pursuing education or training described in subsection (a) or (c) of section 2007 of title 10, U.S.C., may use, at their discretion, Post-9/11 GI Bill benefits to meet all or a portion of the charges of the educational institution for the education or training that are not paid by the Secretary of the Military Department concerned under such subsection. DVA shall administer fully that portion of the Post-9/11 GI Bill Program.

(4) *Time Limitation.* As a general rule, eligible individual entitlements expire at the end of a 15-year period beginning on the Service member's last date of discharge or release from active duty of at least 90 consecutive days (30 days if released or discharged for service-connected disability). The Secretary of the Military Department concerned shall determine the last date of discharge or release, if such date cannot be determined clearly from the Service member's records.

(5) *Issues for Members with Entitlement to Existing Education Programs*—(i) *Members Eligible for Existing Programs.* An individual may elect to receive educational assistance under chapter 33 of title 38, U.S.C., if such individual, as of August 1, 2009,

(A) Is entitled to basic educational assistance under MGIB, and has used, but retains unused, entitlement under chapter 30 of title 38, U.S.C.;

(B) Is entitled to educational assistance under EATP, MGIB–SR, or REAP, and has used, but retains unused, entitlement under the applicable program;

(C) Is entitled to basic educational assistance under MGIB, but has not used any entitlement under chapter 30 of title 38, U.S.C.;

(D) Is entitled to educational assistance under EATP, MGIB–SR, or REAP, but has not used any entitlement under such program;

(E) Is a member of the Armed Forces who is eligible for receipt of basic educational assistance under MGIB, and is making contributions toward such assistance under sections 3011(b) or 3012(c) of title 38, U.S.C.; or

(F) Is a member of the Armed Forces who is not entitled to basic educational assistance under MGIB, by reason of an election under sections 3011(c)(1) or 3012(d)(1) of title 38, U.S.C.; and

(*G*) As of the date of the individual's election under paragraph (a)(5)(i)), meets the requirements for entitlement to educational assistance under chapter 33 of title 38, U.S.C.

(*ii*) *Election Process.* The method and process of making such election will be determined by DVA.

(*iii*) *Irrevocability of Election.* An election made under paragraph (a)(5(i)) of this section is irrevocable.

(*iv*) An individual entitled to educational assistance under the Post-9/11 GI Bill who is also eligible for educational assistance under the MGIB (chapters 30, 31, 32, or 35 of title 38, U.S.C.), EATP (chapter 106A of title 10, U.S.C.), MGIB–SR (chapter 1606 of title 10, U.S.C.), REAP (chapter 1607 of title 10, U.S.C.), or the provisions of the Hostage Relief Act of 1980 (section 5561 note of title 5, U.S.C.) may not receive assistance under two or more such programs concurrently, but shall elect (in such form and manner as the Secretary of Veterans Affairs may prescribe) under which chapter or provisions to receive educational assistance.

(v) *Cessation of Pay Reduction Under Montgomery GI Bill.* Effective as of the first month beginning on or after the date of an election under paragraph (a)(5(i)) of this section, an individual having their pay reduced under the provisions of sections 3011(b) or 3012(c) of title 38, U.S.C., as applicable, shall have that pay reduction ceased, and the requirements of such section shall be deemed no longer applicable to the individual.

(vi) *Refund of Pay Reduction Under Montgomery GI Bill.* An individual who is described in paragraph (a)(5(i)) of this section, whose pay was reduced under the provisions of sections 3011(b) or 3012(c) of title 38, U.S.C., will receive a refund of that pay reduction subject to the following:

(A) A full refund for an individual who used no months of benefit under the MGIB.

(B) A refund reduced by a proportion calculated by the number of months of MGIB benefits remaining at the time of election divided by 36.

(C) The refund will be added to the monthly stipend allowance paid in the last month of eligibility under the Post-9/11 GI Bill. Individuals who do not exhaust entitlement under the Post-9/11 GI Bill will not receive a refund of the pay reduction.

(vii) *Treatment of Certain Contributions Under MGIB and REAP (commonly called ''Buy-Up'').* (A) There is no provision to allow for increasing the amount allowed for Post-9/11 GI Bill benefits based on any contributions made by an individual under the provisions of section 3015(g) of title 38, U.S.C.

(B) There is no provision to allow for increasing the amount allowed for Post-9/11 GI Bill benefits based on any contributions made by an individual under the provisions of section 16162(f) of title 10, U.S.C.

(viii) *Limitation on Entitlement for Certain Individuals.* In the case of an individual eligible for MGIB who has used but retains unused entitlement, making an election to receive benefits under the Post-9/11 GI Bill, the number of months of entitlement of the

individual to educational assistance under the Post-9/11 GI Bill shall be the number of months equal to the number of months of unused entitlement of the individual under MGIB as of the date of the election.

(ix) *Additional Educational and Training Availability.* In addition to the educational benefits as described in paragraph (a)(2)(vi) of this section, individuals who were eligible for benefits under MGIB, MGIB–SR, or REAP, and elect to use benefits under the GI Bill, will be eligible to receive benefits for on-the-job training, apprenticeship training, correspondence courses, flight training, preparatory courses, and national exams at the benefit rate for MGIB, MGIB–S, or REAP, as approriate.

(x) *Treatment of Existing Supplemental Educational Benefits (Kickers).* Individuals eligible for kickers under either MGIB or MGIB–SR will remain eligible for such increased educational assistance. The payments shall be based upon the applicable monthly rate for the kickers. Payments shall be lump sum and made on a quarter, semester, or term basis as determined by the Secretary of Veterans Affairs.

(b) *Supplemental Educational Assistance (''Kickers'')*—(1) *Enlistment Kickers.* (i) The Secretaries of the Military Departments may offer an increase to the monthly amount of educational assistance otherwise payable to the individual under paragraph (1)(B) of section 3313(c) of title 38, U.S.C., or under paragraphs (2) through (7) of such section 3313(c) of title 38, U.S.C. (as applicable), for members who initially enlist in a regular component in a skill or specialty in which there is a critical shortage of personnel or for which it is difficult to recruit. These increases in the monthly amount are known as enlistment kickers.

(ii) The use of enlistment kickers should be based on the criticality of the skill and/or the length of enlistment commitment and may be offered in amounts from $150 per month to $950 per month in increments of $100. Reporting codes for enlistment kickers are listed in Appendix A to this part.

(2) *Affiliation Kickers.* (i) The Secretaries of the Military Departments may offer an increase to the monthly amount of educational assistance otherwise payable to the individual under paragraph (1)(B) of section 3313(c) of title 38, U.S.C., or under paragraphs (2) through (7) of such section 3313(c) of title 38, U.S.C. (as applicable), to a member who is separating honorably from a regular component and who agrees to serve in the Selected Reserve in a skill, specialty, or unit in which there is a critical shortage of personnel or for which it is difficult to recruit and/or retain.

(ii) The use of affiliation kickers should be based on the criticality of the skill and/or unit and the length of Selected Reserve commitment, and may be offered in amounts from $150 per month to $950 per month in increments of $100. If an individual is already eligible for an enlistment kicker, the amount of the Affiliation Kicker is limited to the amount that would take the total to $950. For those individuals who are offered an Affiliation Kicker on top of an Enlistment Kicker, the increases will be in $100 increments. Reporting codes for Affiliation Kickers are the same as the codes for Enlistment Kickers listed in Appendix A to this part.

(3) *Reenlistment Kickers.* (i) The Secretaries of the Military Departments may offer an increase to the monthly amount of educational assistance otherwise payable to the individual under paragraph (1)(B) of section 3313(c) of title 38, U.S.C., or under paragraphs (2) through (7) of such section 3313.(c) of title 38, U.S.C. (as applicable), to a member who, after completing the initial term of service, elects to remain on active duty for a period of at least 2 years.

(ii) The use of reenlistment kickers should be based on the criticality of the skill and may be offered in amounts from $100 per month to $300 per month in increments of $100, based on length of additional service. Reporting codes for reenlistment kickers are listed in Appendix A to this part.

(4) *Limitations.* Since kickers are paid in conjunction with the monthly stipend paid under section (1)(B)(i) of section 3313(c) of title 38, U.S.C., members eligible for kickers should be aware of the limitations on payment.

(i) No payment will be provided for education pursued on half-time basis or less.

(ii) No payment will be provided for education/training pursued solely through distance learning.

(iii) No payment will be provided for use while serving on active duty.

(c) *Transferability of Unused Education Benefits to Family Members.* Subject to the provisions of this section, the Secretaries of the Military Departments, to promote recruitment and retention of members of the Armed Forces, may permit an individual described in paragraph (c)(1) of this section, who is entitled to educational assistance under this Post-9/11 GI Bill to elect to transfer to one or more of the family members specified, all or a portion of such individual's entitlement to such assistance.

(1) *Eligible Individuals.* Any member of the Armed Forces on or after August 1, 2009 who, at the time of the approval of the individual's request to transfer entitlement to educational assistance under this section, is eligible for the Post-9/11 GI Bill, and

(i) Has at least 6 years of service in the Armed Forces (active duty and/or Selected Reserve) on the date of election and agrees to serve 4 additional years in the Armed Forces from the date of election, or

(ii) Has at least 10 years of service in the Armed Forces (active duty and/or Selected Reserve) on the date of election and either standard policy (Service or DoD) or statute preclude the Service member from committing to 4 additional years and agrees to serve for the maximum amount of time allowed by such policy or statute, or

(iii) Is or becomes retirement eligible during the period from August 1, 2009, through August 1, 2013, and agrees to serve the additional period, if any, specified in paragraphs (c)(1)(iii)(A) through (c)(1)(iii)(E) of this section. A Service Member is considered to be retirement eligible if he or she has completed 20 years of active Federal service or 20 qualifying years as computed under section 12732 of title 10, U.S.C.

(A) For those individuals eligible for retirement on August 1, 2009, no additional service is required.

(B) For those individuals who have an approved retirement date after August 1, 2009, and before July 1, 2010, no additional service is required.

(C) For those individuals eligible for retirement after August 1, 2009, and before August 1, 2010, 1 year of additional service is required.

(D) For those individuals eligible for retirement on or after August 1, 2010 and before August 1, 2011, 2 years of additional service is required.

(E) For those individuals eligible for retirement on or after August 1, 2011, and before August 1, 2012, 3 years of additional service is required.

(2) *Eligible Family Members.* (i) An individual approved to transfer an entitlement to educational assistance under this section may transfer the individual's entitlement to:

(A) The individual's spouse.

(B) One or more of the individual's children.

(C) A combination of the individuals referred to in paragraphs (c)(2)(i)(A) and (c)(2)(i)(B) of this section.

(ii) A family member must be enrolled in the Defense Eligibility Enrollment

Reporting System (DEERS) and be eligible for benefits, at the time of transfer to receive transferred educational benefits.

(iii) A child's subsequent marriage will not affect his or her eligibility to receive the educational benefit; however, after an individual has designated a child as a transferee under this section, the individual retains the right to revoke or modify the transfer at any time.

(iv) A subsequent divorce will not affect the transferee's eligibility to receive educational benefits; however, after an individual has designated a spouse as a transferee under this section, the eligible individual retains the right to revoke or modify the transfer at any time.

(3) *Months of Transfer.* Months transferred must be in whole months. The Secretary of Defense may limit the months of entitlement that may be transferred to no less than 18 months. The number of months of benefits transferred by an individual under this section may not exceed the lesser of:

(i) The months of unused benefits available under the Post-9/11 GI Bill,

(ii) 36 months, or

(iii) the number of months specified by the Secretary of Defense.

(4) *Transferee Usage.* Dependent use of transferred educational benefits is subject to the following:

(i) A spouse:

(A) May start to use the benefit only after the individual making the transfer has completed at least 6 years of service in the Armed Forces.

(B) May use the benefit while the member remains in the Armed Forces or after separation from active duty after completing the additional service required to transfer the educational assistance under the Post-9/11 GI Bill referred to in paragraph (c)(1) of this section.

(C) Is subject to the same 15-year limitation as the member as stipulated in paragraph (a)(4) of this section.

(ii) A child:

(A) May start to use the benefit only after the individual making the transfer has completed at least 10 years of service in the Armed Forces.

(B) May use the benefit while the member remains in the Armed Forces or after separation from active duty after completing the additional service required to transfer the educational assistance under the Post-9/11 GI Bill referred to in paragraph (c)(1) of this section.

(C) May not use the benefit until they have met the requirements of a secondary school diploma (or equivalency certificate), or reached 18 years of age.

(D) Is not subject to the time limitation in paragraph (a)(4) of this section, but may not use the benefit after reaching 26 years of age.

(5) *Nature of Transferred Entitlement.* The entitlement transferred will be available as follows:

(i) An eligible spouse:

(A) Is entitled to educational assistance under chapter 33 of title 38, U.S.C. in the same manner as the individual from whom the entitlement was transferred.

(B) Is not eligible for the monthly stipend or books and supplies stipend while the sponsor is serving on active duty.

(ii) An eligible child:

(A) Is entitled to educational assistance under chapter 33 of title 38, U.S.C, in the same manner as the individual from whom the entitlement was transferred as if the individual were not on active duty.

(B) Is entitled to the monthly stipend and books and supplies stipend even if the eligible individual is on active duty.

(6) *Designation of Transferee.* An individual transferring an entitlement to educational assistance under this section shall, through notification to the Secretary of the Military Department concerned as specified in paragraph (c)(9) of this section:

(i) Designate the dependent or dependents to whom such entitlement is being transferred;

(ii) Designate the number of months of such entitlement to be transferred to each dependent; and

(iii) Specify the period for which the transfer shall be effective for each dependent.

(7) *Time for Transfer, Revocation, and Modification*—(i) *Time for Transfer.* An individual approved to transfer entitlement to educational assistance under this section may transfer such entitlement to the individual's dependent only while serving as a member of the Armed Forces.

(ii) *Modification or Revocation.* (A) An individual transferring entitlement under this section may modify or revoke at any time the transfer of any unused portion of the entitlement so transferred.

(*1*) An individual may add new dependents, modify the number of months of the transferred entitlement for existing dependents, or revoke transfer of the entitlement while serving in the Armed Forces.

(*2*) An individual may not add dependents after retirement or separation from the Armed Forces, but may modify the number of months of the transferred entitlement for existing dependents or revoke transferred benefits after retirement or separation for those family members who had received transferred benefits prior to separation or retirement.

(B) The modification or revocation of the transfer of entitlement under this section shall be made by submitting notice of the action to both the Secretary of the Military Department concerned and the Secretary of Veterans Affairs. Additions, modifications or revocations made while in the Armed Forces will be made through the Transferability of Educational Benefits (TEB) Web site as described in paragraph (c)(9) of this section. Modifications or revocations after separation from the Armed Forces will be accomplished with the Department of Veterans Affairs.

(8) *Additional Administrative Matters*—(i) *Use.* The use of any entitlement to educational assistance transferred under this section shall be charged against the entitlement of the individual making the transfer at the rate of 1 month for each month of transferred entitlement that is used.

(ii) *Death of Transferor.* The death of an individual transferring an entitlement under this section shall not affect the use of the entitlement by the dependent to whom the entitlement is transferred.

(iii) *Scope of Use by Transferees.* The purposes for which a dependent to whom entitlement is transferred under this section may use such entitlement shall include the pursuit and completion of the requirements of a secondary school diploma (or equivalency certificate).

(iv) *Joint and Several Liability.* In the event of an overpayment of educational assistance with respect to a dependent to whom entitlement is transferred under this section, the dependent and the individual making the transfer shall be jointly and severally liable to the United States for the amount of the overpayment for purposes of section 3685 of title 38, U.S.C.

(v) *Failure to Complete Service Agreement.* (A) Except as provided in paragraph (c)(8)(v)(B) of this section, if an individual transferring entitlement under this section fails to complete the service agreed to by the individual under paragraph (c)(1) of this section in accordance with the terms of the agreement of the individual under that section, the amount of any transferred entitlement under this section that is used by a dependent of the individual as of the date of such failure shall be treated as an overpayment of educational assistance (see paragraph (c)(8)(iv) of this section) and will be subject to collection by DVA.

(B) Paragraph (c)(8)(v)(A) of this section shall not apply in the case of an individual who fails to complete service agreed to by the individual due to:

(*1*) The death of the individual,

(*2*) Discharge or release from active duty for a medical condition which pre-existed the service of the individual and was not service connected,

(*3*) Discharge or release from active duty for hardship as determined by the Secretary of the Military Department concerned,

(*4*) Discharge or release from active duty for a physical or mental condition not a disability and that did not result from the individual's own willful misconduct, but did interfere with the performance of duty.

(9) *Procedures.* All requests and transactions for individuals who remain in the Armed Forces will be completed through the Transferability of Educational Benefits (TEB) Web application at *https://www.dmdc.osd.mil/TEB/.* The TEB Users Manual will provide instruction for enrollment; verification; and additions, changes, and revocations. Modifications or revocations after separation from the Armed Forces will be accomplished with the Department of Veterans Affairs.

(10) *Regulations.* The Secretaries of the Military Departments concerned shall prescribe regulations for the purposes of administering the transferability of unused education entitlements to family members in accordance with this part. Such regulations shall specify:

(i) The manner of verifying and documenting the additional service commitment, if any, under paragraph (c)(1) of this section, to be authorized to transfer education benefits.

(ii) The manner of determining eligibility to be authorized to transfer entitlements as allowed in paragraph (c)(1)(i), (c)(1)(ii) or (c)(1)(iii) of this section.

§ 65.7 Eligibility.

The DVA is responsible for determining eligibility for education benefits under the GI Bill. Generally, to be eligible for the GI Bill, individuals must serve on active duty after September 10, 2001, for at least 30 continuous days with a discharge due to a service-connected disability; or an aggregate period ranging from 90 days to 36 months or more. Benefits under the GI Bill are based on a percentage, as determined by a Service Member's length of active duty service, as shown in the following table:

TABLE TO § 65.7—MAXIMUM BENEFITS PAYABLE

Member serves	Percentage of maximum benefit payable
At least 36 months	100
At least 30 continuous days on active duty and discharged due to service-connected disability	100
At least 30 months, but less than 36 months	90
At least 24 months, but less than 30 months	80
At least 18 months, but less than 24 months*	70
At least 12 months, but less than 18 months*	60
At least 6 months, but less than 12 months*	50
At least 90 days, but less than 6 months*	40

If aggregate service is less than 24 months, initial entry training does not count as qualifying active duty.

§ 65.8 Reporting requirements.

The reporting requirements in this part have been assigned Report Control Symbols DD–P&R(AR)1221, DD–P&R(Q)2077, DD–RA(M)1147, DD–RA(D)1148, DD–RA(D)2170, DD–RA(M)2171, DD–RA(D)2302, and DD–RA(M)2303 in accordance with the requirements of DoD 8910.1–M (Available at *http://www.dtic.mil/whs/directives/corres/pdf/891001m.pdf*).

Appendix A to 32 CFR Part 65—Additional Reporting Requirements

TABLE 1—DATA ELEMENTS FROM DOD INSTRUCTION 1336.5 AND DOD INSTRUCTION 7730.54 RELEVANT TO THIS PART

Field	Data element name	Description	References
947–954 ...	*d. Initial Entry Training End Calendar Date.*	The date a member completed initial entry training, including skill training. Format: YYYYMMDD. If not applicable or unknown, report all zeros.	
293	*b. Commissioned Officer Accession Program Source Code.*	The code that represents the accession program by which a member first obtained commissioned officer, other than commissioned warrant officer, status (also known as Source of Initial Commission.) Applicable only to commissioned officers, other than commissioned warrant officers. If not applicable or unknown, report Z. G ROTC scholarship program under section 2107(b) of title 10, U.S.C. R ROTC scholarship program under section 2107a of title 10, U.S.C.	See DoD Instruction 1336.5 for additional data elements.
955–971 ...	Active Duty Loan Repayment Incentive Program.		

TABLE 1—DATA ELEMENTS FROM DoD INSTRUCTION 1336.5 AND DoD INSTRUCTION 7730.54 RELEVANT TO THIS PART—Continued

Field	Data element name	Description	References
955–962 ...	a. Active Duty Loan Repayment Incentive Program Eligibility Effective Date.	The beginning date of a Service member's commitment based on eligibility for an educational incentive under the Active Duty Loan Repayment Incentive Program. Format: YYYYMMDD. If not applicable or unknown, report all zeroes.	
963	b. Active Duty Loan Repayment Incentive Program Educational Type Code.	The type of active duty educational incentive for a Service member, who is appointed, enlists, reenlists, affiliates, or extends in an Active Duty Loan Repayment Incentive Program. If not applicable or unknown, report Z. A = Educational loan repayment assistance.	Chapter 109 of title 10, U.S.C.
964–971 ...	c. Active Duty Loan Repayment Incentive Program Eligibility Completion Date.	The completion date of a Service member's commitment based on eligibility for an educational incentive under the Active Duty Loan Repayment Incentive Program. Format: YYYYMMDD. If not applicable or unknown, report all zeroes.	
972–975 ...	GI Bill Incentive Program..		
972–973 ...	a. GI Bill Incentive Kicker Rate Code.	The code that represents the monetary level of a GI Bill kicker incentive for which a member is entitled upon enlistment or affiliation. If not applicable or unknown, report ZZ.	See Table 4 for a list of values.
974–975 ...	b. GI Bill Reenlistment Incentive Kicker Rate Code.	The code that represents the monetary level of a GI Bill reenlistment kicker incentive for which a member is entitled. If not applicable or unknown, report ZZ.	See Table 5 for a list of values.

TABLE 2—ENLISTMENT AND AFFILIATION KICKER CODES*

Code	Rate	Other Information
D2	$150	Effective 1 August 2009. Requires a 2-year active duty service agreement.
D3	150	Effective 1 August 2009. Requires a 3-year active duty service agreement.
D4	150	Effective 1 August 2009. Requires a 4-year active duty service agreement.
D5	150	Effective 1 August 2009. Requires a 5-year active duty service agreement.
D6	150	Effective 1 August 2009. Requires a 6-year active duty service agreement.
D9	150	Effective 1 August 2009. Requires a 4-year service agreement: 2 years on active duty plus 2 years in the Selected Reserve.
E2	250	Effective 1 August 2009. Requires a 2-year active duty service agreement.
E3	250	Effective 1 August 2009. Requires a 3-year active duty service agreement.
E4	250	Effective 1 August 2009. Requires a 4-year active duty service agreement.
E5	250	Effective 1 August 2009. Requires a 5-year active duty service agreement.
E6	250	Effective 1 August 2009. Requires a 6-year active duty service agreement.
E9	250	Effective 1 August 2009. Requires a 4-year service agreement: 2 years on active duty plus 2 years in the Selected Reserve.
F2	350	Effective 1 August 2009. Requires a 2-year active duty service agreement.
F3	350	Effective 1 August 2009. Requires a 3-year active duty service agreement.
F4	350	Effective 1 August 2009. Requires a 4-year active duty service agreement.
F5	350	Effective 1 August 2009. Requires a 5-year active duty service agreement.
F6	350	Effective 1 August 2009. Requires a 6-year active duty service agreement.
F9	350	Effective 1 August 2009. Requires a 4-year service agreement: 2 years on active duty plus 2 years in the Selected Reserve.
G2	450	Effective 1 August 2009. Requires a 2-year active duty service agreement.
G3	450	Effective 1 August 2009. Requires a 3-year active duty service agreement.
G4	450	Effective 1 August 2009. Requires a 4-year active duty service agreement.
G5	450	Effective 1 August 2009. Requires a 5-year active duty service agreement.
G6	450	Effective 1 August 2009. Requires a 6-year active duty service agreement.
G9	450	Effective 1 August 2009. Requires a 4-year service agreement: 2 years on active duty plus 2 years in the Selected Reserve.
H2	550	Effective 1 August 2009. Requires a 2-year active duty service agreement.
H3	550	Effective 1 August 2009. Requires a 3-year active duty service agreement.
H4	550	Effective 1 August 2009. Requires a 4-year active duty service agreement.
H5	550	Effective 1 August 2009. Requires a 5-year active duty service agreement.
H6	550	Effective 1 August 2009. Requires a 6-year active duty service agreement.
H9	550	Effective 1 August 2009. Requires a 4-year service agreement: 2 years on active duty plus 2 years in the Selected Reserve.
J2	650	Effective 1 August 2009. Requires a 2-year active duty service agreement.
J3	650	Effective 1 August 2009. Requires a 3-year active duty service agreement.
J4	650	Effective 1 August 2009. Requires a 4-year active duty service agreement.
J5	650	Effective 1 August 2009. Requires a 5-year active duty service agreement.

TABLE 2—ENLISTMENT AND AFFILIATION KICKER CODES*—Continued

Code	Rate	Other Information
J6	650	Effective 1 August 2009. Requires a 6-year active duty service agreement.
J9	650	Effective 1 August 2009. Requires a 4-year service agreement: 2 years on active duty plus 2 years in the Selected Reserve.
K2	750	Effective 1 August 2009. Requires a 2-year active duty service agreement.
K3	750	Effective 1 August 2009. Requires a 3-year active duty service agreement.
K4	750	Effective 1 August 2009. Requires a 4-year active duty service agreement.
K5	750	Effective 1 August 2009. Requires a 5-year active duty service agreement.
K6	750	Effective 1 August 2009. Requires a 6-year active duty service agreement.
K9	750	Effective 1 August 2009. Requires a 4-year service agreement: 2 years on active duty plus 2 years in the Selected Reserve.
L2	850	Effective 1 August 2009. Requires a 2-year active duty service agreement.
L3	850	Effective 1 August 2009. Requires a 3-year active duty service agreement.
L4	850	Effective 1 August 2009. Requires a 4-year active duty service agreement.
L5	850	Effective 1 August 2009. Requires a 5-year active duty service agreement.
L6	850	Effective 1 August 2009. Requires a 6-year active duty service agreement.
L9	850	Effective 1 August 2009. Requires a 4-year service agreement: 2 years on active duty plus 2 years in the Selected Reserve.
M2	950	Effective 1 August 2009. Requires a 2-year active duty service agreement.
M3	950	Effective 1 August 2009. Requires a 3-year active duty service agreement.
M4	950	Effective 1 August 2009. Requires a 4-year active duty service agreement.
M5	950	Effective 1 August 2009. Requires a 5-year active duty service agreement.
M6	950	Effective 1 August 2009. Requires a 6-year active duty service agreement.
M9	950	Effective 1 August 2009. Requires a 4-year service agreement: 2 years on active duty plus 2 years in the Selected Reserve.

*This will be the same coding structure for DoD Instruction 7730.54, ''Reserve Components Common Personnel Data System (RCCPDS).''

TABLE 3—REENLISTMENT KICKER CODES*

Code	Rate	Other Information
N2	$100	Effective 1 August 2009. Requires a 2-year active duty service agreement.
N3	200	Effective 1 August 2009. Requires a 3-year active duty service agreement.
N4	300	Effective 1 August 2009. Requires a 4-year active duty service agreement.

*This will be the same coding structure for DoD Instruction 7730.54, ''Reserve Components Common Personnel Data System (RCCPDS).''

Dated: June 18, 2009.

Patricia L. Topppings,

OSD Federal Register Liaison Officer, Department of Defense.

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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket No. USCG–2009–0430]

RIN 1625–AA08

Special Local Regulation for Marine Events; Recurring Marine Events in the Fifth Coast Guard District

AGENCY: Coast Guard, DHS.

ACTION: Interim final rule; request for comments.

SUMMARY: The Coast Guard is amending the list of recurring marine events within the Fifth Coast Guard District. These regulations make small changes to the regulated areas of two permitted marine events listed in the table attached to the regulation. These special local regulations are necessary to provide for the safety of life on navigable waters during marine events. This action will restrict vessel traffic in portions of the Chesapeake Bay and Assateague Channel, Virginia.

DATES: This interim final rule is effective July 27, 2009. Comments and related material must reach the Coast Guard on or before July 10, 2009.

ADDRESSES: You may submit comments identified by docket number USCG–2009–0430 using any one of the following methods:

(1) *Federal eRulemaking Portal: http://www.regulations.gov.*

(2) *Fax:* 202–493–2251.

(3) *Mail:* Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590–0001.

(4) *Hand delivery:* Same as mail address above, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329.

To avoid duplication, please use only one of these four methods. See the ''Public Participation and Request for Comments'' portion of the **SUPPLEMENTARY INFORMATION** section below for instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: If you have questions on this interim rule, call or e-mail, Dennis Sens, Project Manager, Fifth Coast Guard District, Prevention Division, 757–398–6204 or e-mail *Dennis.M.Sens@uscg.mil.* If you have questions on viewing or submitting material to the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION:

Public Participation and Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related materials. All comments received will be posted, without change, to *http://www.regulations.gov* and will include any personal information you have provided.

Submitting Comments

If you submit a comment, please include the docket number for this rulemaking (USCG–2009–0430), indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online (via *http://www.regulations.gov*) or by fax, mail or hand delivery, but please use only one of these means. If you submit a comment online via *http://www.regulations.gov*, it will be considered received by the Coast Guard when you successfully transmit the comment. If you fax, hand delivery, or mail your comment, it will be considered as having been received by the Coast Guard when it is received at the Docket Management Facility. We recommend that you include your name and a mailing address, an e-mail address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

To submit your comment online, go to *http://www.regulations.gov*, select the Advanced Docket Search option on the right side of the screen, insert ''USCG–2009–0430'' in the Docket ID box, press Enter, and then click on the balloon shape in the Actions column. If you submit comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period and may change this rule based on your comments.

Viewing Comments and Documents

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov*, select the Advanced Docket Search option on the right side of the screen, insert USCG–2009–0430 in the Docket ID box, press Enter, and then click on the item in the Docket ID column. You may also visit the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. We have an agreement with the Department of Transportation to use the Docket Management Facility.

Privacy Act

Anyone can search the electronic form of comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review a Privacy Act notice regarding our public dockets in the January 17, 2008, issue of the **Federal Register** (73 FR 3316).

Public Meeting

We do not now plan to hold a public meeting. But you may submit a request for one using one of the four methods specified under **ADDRESSES**. Please explain why you believe a public meeting would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

Regulatory Information

The Coast Guard is issuing this interim rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because the amendments provided make only minor changes to the regulated area and enhance the safety of life on navigable waters during marine events.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. The potential dangers posed to event participants and protected wildlife on navigable waterways by vessel traffic makes special local regulations necessary. Delaying the effective date would be contrary to the public interest, since immediate action is needed to ensure the safety of the event participants, support vessels, spectator craft and other vessels transiting the event area. However, advance notifications will be made to users of the affected waterways via marine information broadcasts, local notice to mariners, commercial radio stations and area newspapers.

Background and Purpose

Marine events are frequently held on the navigable waters within the boundary of the Fifth Coast Guard District. For a description of the geographical area of each Coast Guard Sector—Captain of the Port Zone, please see 33 CFR 3.25.

This regulation amends two marine events listed in 33 CFR Part 100.501, Table to § 100.501. They are event No. 20, The Great Chesapeake Bay Bridges Swim Races and Chesapeake Challenge One Mile Swim and event No. 42, Pony Penning Swim.

Annually, the Great Chesapeake Bay Swim, Inc. sponsors the ''The Great Chesapeake Bay Bridges Swim Races and Chesapeake Challenge One Mile Swim'' on the waters of the Chesapeake Bay near the William P. Lane Jr. Memorial (Chesapeake Bay) Bridge. The regulated area is a line that runs parallel to both the north and south spans of the bridge and includes the waters 500 yards north of the north span and 500 yards south of the south span of the bridge. The regulated area listed in the Table to § 100.501 for event No. 20 is amended to describe the area as follows: The waters of the Chesapeake Bay between and adjacent to the spans of the William P. Lane Jr. Memorial Bridge shore to shore 500 yards north of the north span of the bridge from the western shore at latitude 39°00′36″ N, longitude 076°23′53″ W and the eastern shore at latitude 38°59′14″ N, longitude 076°20′00″ W; and 500 yards south of the south span of the bridge from the western shore at latitude 39°00′16″ N, longitude 076°24′30″ W and the eastern shore at latitude 38°58′39″ N, longitude 076°20′10″ W. The regulated area as described is amended to ensure the safety of participants and support vessels and in accordance with 33 CFR 100.501 will be enforced for the duration of the marine event. Due to the need for vessel control during the event, vessel traffic will be temporarily restricted in this segment of the Chesapeake Bay. Under provisions of 33 CFR 100.501, during the enforcement period, vessels may not enter the regulated area unless they receive permission from the Coast Guard Patrol Commander. Vessel traffic may be allowed to transit the regulated area only when the Patrol Commander determines it is safe to do so.

Annually, the Chincoteague Volunteer Fire Department sponsors the ''The Pony Penning Swim'' on the waters of Assateague Channel that runs between Chincoteague and Assateague Islands. The regulated area includes the waters of Assateague Channel from shoreline to shoreline, bounded to the east by a line drawn from latitude 37°55′00″ N, longitude 075°22′45″ W, to latitude 37°54′47″ N, longitude 075°22′45″ W,

and to the south by a line drawn from latitude 37°54′47″ N, longitude 075°22′45″ W, to latitude 37°54′47″ N, longitude 075°23′04″ W. The regulated area as described, is amended to ensure the safety of participants, wildlife and support vessels, and in accordance with 33 CFR 100.501 will be enforced for the duration of the marine event. Due to the need for vessel control during the event, vessel traffic will be temporarily restricted in this segment of Assateague Channel. Vessels may not enter the regulated area unless they receive permission from the Coast Guard Patrol Commander.

Specific information on each event, including the exact dates, times and description of the regulated area, will be provided to the public through a Local Notice to Mariners published before the event, as well as through Broadcast Notice to Mariners. The public will also be notified about these marine events by local newspapers, radio and television stations. The various methods of notification provided by the Coast Guard and local community media outlets will facilitate informing mariners so they can adjust their plans accordingly.

Discussion of Rule

The regulated area for ''The Great Chesapeake Bay Bridges Swim Races and Chesapeake Challenge One Mile Swim'' is amended to correct two reference positions incorrectly listed in the Table to § 100.501, event No. 20. Specifically, the longitude that describes the point north of the northern bridge span near the western shoreline should have indicated 53 minutes vice 5 minutes longitude. The latitude and longitude that describes the point south of the southern bridge span near the eastern shoreline should have indicated 39 minutes latitude and 10 minutes longitude vice 38.5 minutes and 6 minutes, respectively. This action is not considered a significant change with regard to both size of the regulated area and impact on vessels transiting the area during the enforcement period. This rule amends latitude and longitude points of reference that are located at the periphery of the regulated area. The adjustments to latitude and longitude discussed in this rule have minimal effect on the overall size of the regulated area, particularly where it intersects charted navigational channels. This corrective action will further enhance safety of event participants, support vessels and local area vessels transiting near the regulated area.

The regulated area for ''The Chincoteague Pony Penning Swim'' is amended to correct the description of the regulated area incorrectly listed in the Table to § 100.501, event No. 42. The regulated area as amended by this rule adjusts the southern boundary line by moving it approximately 400 yards to the south along the mid-line of the channel and adjusts the eastern boundary by moving it approximately 100 yards to the west along the mid-line of the channel. This action is not considered a significant change with regard to both size of the regulated area and impact on vessels transiting the area during the enforcement period. The regulated area encompasses a remote marsh area with relatively light vessel traffic. This corrective action will further enhance safety of event participants, wildlife, support vessels and local area vessels transiting near the regulated area.

Regulatory Analyses

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

Regulatory Planning and Review

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

Although this rule prevents traffic from transiting a portion of certain waterways during specified events, the effect of this regulation will not be significant due to the limited duration that the regulated area will be in effect and the extensive advance notifications that will be made to the maritime community via marine information broadcasts, local radio stations and area newspapers so mariners can adjust their plans accordingly. In some cases vessel traffic may be able to transit the regulated area when the Coast Guard Patrol Commander deems it is safe to do so.

Small Entities

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

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. This rule would affect the following entities, some of which might be small entities: the owners or operators of vessels intending to transit or anchor in the areas where marine events are being held. This regulation will not have a significant impact on a substantial number of small entities because it will be enforced only during marine events that have been permitted by the Coast Guard Captain of the Port. The Captain of the Port will ensure that small entities are able to operate in the areas where events are occurring when it is safe to do so. In some cases, vessels will be able to safely transit around the regulated area at various times, and, with the permission of the Patrol Commander, vessels may transit through the regulated area. Before the enforcement period, the Coast Guard will issue maritime advisories so mariners can adjust their plans accordingly.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

Assistance for Small Entities

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

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

Collection of Information

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

Federalism

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

Unfunded Mandates Reform Act

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

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

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

Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

Energy Effects

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

Technical Standards

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

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

Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded this action is one of a category of actions which do not individually or cumulatively have a significant effect on the human environment. This rule is categorically excluded, under figure 2–1, paragraph (34)(h), of the Instruction. This rule involves implementation of regulations within 33 CFR Part 100 that apply to organized marine events on the navigable waters of the United States that may have potential for negative impact on the safety or other interest of waterway users and shore side activities in the event area. The category of water activities includes but is not limited to sail boat regattas, boat parades, power boat racing, swimming events, crew racing, and sail board racing.

Under figure 2–1, paragraph (34)(h), of the Instruction, an environmental analysis checklist and a categorical exclusion determination are not required for this rule.

List of Subjects in 33 CFR Part 100

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

■ For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 100 as follows:

PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

■ 1. The authority citation for part 100 continues to read as follows:

Authority: 33 U.S.C. 1233.

■ 2. In § 100.501, in the Table to § 100.501, revise number 20 and number 42, to read as follows:

§ 100.501 Special Local Regulations; Marine Events in the Fifth Coast Guard District.

* * * * *

TABLE TO § 100.501.—ALL COORDINATES LISTED IN THE TABLE TO § 100.501 REFERENCE DATUM NAD 1983.

No.	Date	Event	Sponsor	Location
Coast Guard Sector Baltimore—COTP Zone				
*	*	*	*	* * *
20.	June—2nd Sunday ..	The Great Chesapeake Bay Bridges Swim Races and Chesapeake Challenge One Mile Swim..	Great Chesapeake Bay Swim, Inc.	The waters of the Chesapeake Bay between and adjacent to the spans of the William P. Lane Jr. Memorial Bridge shore to shore 500 yards north of the north span of the bridge from the western shore at latitude 39°00′36″ N, longitude 076°23′53″ W and the eastern shore at latitude 38°59′14″ N, longitude 076°20′00″ W, and 500 yards south of the south span of the bridge from the western shore at latitude 39°00′16″ N, longitude 076°24′30″ W and the eastern shore at latitude 38°58′39″ N, longitude 076°20′10″ W.
*	*	*	*	* * *
Coast Guard Sector Hampton Roads—COTP Zone				
*	*	*	*	* * *
42.	July—last Wednesday and following Friday.	Pony Penning Swim	Chincoteague Volunteer Fire Department.	The waters of Assateague Channel from shoreline to shoreline, bounded to the east by a line drawn from latitude 37°55′00″ N, longitude 075°22′45″ W, to latitude 37°54′47″ N, longitude 075°22′45″ W, and to the south by a line drawn from latitude 37°54′47″ N, longitude 075°22′45″ W, to latitude 37°54′47″ N, longitude 075°23′04″ W.
*	*	*	*	* * *

Dated: June 10, 2009.

Fred M. Rosa, Jr.,

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

[FR Doc. E9–15024 Filed 6–24–09; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2009–0486]

Drawbridge Operation Regulations; Passaic River, NJTRO Bridge, Harrison, NJ, Maintenance

AGENCY: Coast Guard, DHS.

ACTION: Notice of temporary deviation from regulations.

SUMMARY: The Commander, First Coast Guard District, has issued a temporary deviation from the regulation governing the operation of the New Jersey Transit Rail Operations (NJTRO) Newark-Harrison Bridge across the Passaic River, mile 5.8, at Harrison, New Jersey. The deviation is necessary to facilitate mechanical rehabilitation at the bridge. The deviation allows the bridge to remain in the closed position for four months. A two week advance notice for bridge openings will be required during the four months of construction.

DATES: This deviation is effective from July 20, 2009 through November 20, 2009.

ADDRESSES: Documents mentioned in this preamble as being available in the docket are part of docket USCG–2009–0486 and are available online at *http://www.regulations.gov,* selecting the Advanced Docket Search option on the right side of the screen, inserting USCG–2009–0001 in the docket ID box, pressing enter, and then clicking on the item in the Docket ID column. This material is also available for inspection or copying at the Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or e-mail Mr. Joe Arca, Project Officer, First Coast Guard District, telephone (212) 668–7165, *joe.m.arca@uscg.mil.* If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION:

The owner of the bridge, New Jersey Transit Rail Operation, requested this temporary deviation to facilitate mechanical and structural rehabilitation construction at the bridge. The NJTRO Bridge across the Passaic River at mile 5.8, at Harrison, New Jersey, has a vertical clearance in the closed position of 15 feet at mean high water and 20 feet at mean low water. The Drawbridge Operation Regulations are listed at 33 CFR 117.739(g).

Under this temporary deviation the NJTRO Bridge may remain in the closed position for four months from July 20, 2009 through November 20, 2009, to facilitate rehabilitation construction at the bridge. The bridge shall open for vessel traffic upon two weeks notice by calling Mr. Harold Mullcavey, at 732–620–5354 during daytime business hours, 7 a.m. to 5 p.m., Monday through Friday. Vessels able to pass under the closed draw may do so at any time.

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

Dated: June 11, 2009.

Gary Kassof,

Bridge Program Manager, First Coast Guard District.

[FR Doc. E9–14944 Filed 6–24–09; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[USCG–2008–1141, formerly CGD11–03–005]

RIN 1625–AA09

Drawbridge Operation Regulations; Connection Slough, Bacon Island, CA

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard is changing the drawbridge operation regulation governing the operation of the Connection Slough Drawbridge. This final rule ensures a drawbridge operator can be contacted, is present at the drawbridge during identified increased navigation periods, and reduces the hours a drawbridge operator is required to be at the drawbridge and not gainfully employed. These changes will continue to provide for the reasonable needs of navigation.

DATES: This rule is effective July 27, 2009.

ADDRESSES: Comments and related materials received from the public, as well as documents mentioned in this preamble as being available in the docket, are part of docket USCG- USCG–2008–1141 and are available online by going to *http://www.regulations.gov,* selecting the Advanced Docket Search option on the right side of the screen, inserting USCG–2008–1141 in the Docket ID box, pressing Enter, and then clicking on the item in the Docket ID column. This material is also available for inspection or copying at the Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or e-mail Mr. David H. Sulouff, Bridge Administrator, Eleventh Coast Guard District; telephone (510) 437–3516, e-mail *David.H.Sulouff@uscg.mil.* If you have questions on viewing the electronic docket, call Ms. Renee V. Wright, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION:

Regulatory Information

On September 22, 2003, the Coast Guard published a Notice of Proposed Rulemaking (NPRM) entitled Drawbridge Operation Regulations; Connection Slough, Stockton, CA (68 FR 55020), to adjust the advance notice procedures for mariners to contact the drawbridge for an opening. Based on the 220 comments received, the Coast Guard reopened the comment period on June 18, 2004, with a Supplemental Notice of Proposed Rulemaking (SNPRM) (69 FR 34100), under the same title, to explain and reemphasize the continued availability for the drawbridge to open, with seasonal adjustments to the ''advance notice'' times for mariners to schedule openings of the bridge. Two non-substantive comments were received from the SNPRM; however, due to variances between the bridge owner and the public, the Coast Guard chose to not move forward with the proposed rule but left the docket open.

At the request of the bridge owner to reassess the proposed rule, the Coast Guard published another SNPRM on December 1, 2008, (73 FR 72752) using the electronic docket tracking system as USCG–2008–1141. The comment period concluded on March 2, 2009 with no comments.

Background and Purpose

The drawbridge owner, Central California Redevelopment Company (CCRC Farms), requested changing the dates and times for advance notice for drawspan operation at their Reclamation District drawbridge, crossing Connection Slough between Mandeville and Bacon Islands, near Stockton, CA. The reason for the proposal was to reduce operating costs of the drawbridge while continuing to meet the reasonable needs of vessel traffic. CCRC Farms provided drawbridge operating logs for a two-year period (2000 to 2002) that documented a significant decrease in calls for operation of the drawspan from September 16 to May 14, annually, between the hours of 5 p.m. and 9 a.m. This supported their request to adjust the existing advance notice period to more closely match the reduced navigational activity. On September 22, 2003, we published an NPRM and the information was also published in the Coast Guard Local Notice to Mariners (LNM), 40/3, dated October 7, 2003. The Coast Guard received approximately 220 letters and observed at least two articles in a local publication that objected to a reduced availability of the drawbridge to open for vessels. The wording in the NPRM and the LNM did not clearly explain that the drawspan will continue to be available for passage of vessels on a 24 hour, seven day per week basis. We addressed those comments in the June 18, 2004 SNPRM and provided written copies of the SNPRM to the local media and to those who commented previously, to ensure any replies to our office are based upon the official proposal. The Coast Guard received two non-substantive comments regarding the SNPRM. However there remained conflicting information between the bridge owner and the waterways users. At that time the Coast Guard chose not to pursue the proposed schedule until the differing issues could be resolved and chose to leave the docket open. On July 24, 2008, Tuscany Research Institute and CCRC Farms provided additional supporting documentation in favor of revised advance notice drawbridge operation regulation for the bridge and reinitiated the request for the Coast Guard to evaluate the proposal. On December 1, 2008, the Coast Guard published an SNPRM in the **Federal Register**, proposing adjusted advance notice times for this drawbridge. The Coast Guard also published the information in the Local Notice to Mariners for 21 weeks, beginning October 8, 2008 and ending February 25, 2009.

The existing regulation, 33 CFR 117.150, requires the drawbridge, from May 1 through October 31, to open on signal between the hours of 6 a.m. and 10 p.m., and from November 1 through April 30, to open on signal between the hours of 9 a.m. and 5 p.m. All other times the drawbridge must open on signal if notice is given at least four hours in advance. All drawbridges are required to open for emergencies as required by 33 CFR 117.31. It is also important to note that the existing regulation presently allows the drawbridge owner to operate the drawbridge with advance notice, during certain dates and times. It does not allow the drawbridge to remain closed or to obstruct navigation, when the proper signals to open have been given. Many comments, received in response to the NPRM, indicated a lack of understanding of the existing advance notice operation. Therefore, the Coast Guard will ensure signs are installed, maintained and updated by the bridge owner, on the upstream and downstream sides of the drawbridge, in compliance with 33 CFR 117.55, to post the advance notice schedules, with telephone numbers and point of contact to be notified for drawbridge operation. Vessel operators are reminded to adhere to requirements in 33 CFR 117.11 regarding unnecessary opening of the draw. The Coast Guard periodically reminds bridge owners of their

responsibility to provide drawbridge openings for vessels when signals have been given, and failure to comply may result in significant civil penalties against the bridge owner. Waterway users are encouraged to promptly notify the Eleventh Coast Guard District Bridge Office at (510) 437–3516, if vessel delays are caused by improper operation of the drawbridge.

Discussion of Comments and Changes

This rule amends 33 CFR 117.150 by revising the current operating schedule for the Reclamation District No. 2027 bridge across Connection Slough. This rule extends both the annual date and daily time when the bridge is allowed to operate under advanced notice.

Comments received from the NPRM are discussed more fully above and were addressed in the SNPRM dated June 18, 2004. The June 18, 2004 SNPRM received two comments and neither was substantive in regard to the proposed rule and the 2008 SNPRM received no comments. No public meeting was requested and none was held.

Regulatory Analysis

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

Regulatory Planning and Review

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

This conclusion is based on the fact that these changes have only a minimal impact on maritime traffic transiting the bridge. Mariners can schedule bridge openings any time, night or day, any day of the year. Mariners may also plan their trips to arrive at the drawbridge during times when a bridge operator is scheduled to be present at the bridge. Vessels that can pass under the bridge without a bridge opening may do so at all times.

Small Entities

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

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

This conclusion is based on the fact that the changes will have only a minimal impact on maritime traffic transiting the bridge. Mariners can schedule bridge openings any time, night or day, any day of the year. Mariners may also plan their trips to arrive at the drawbridge during times when a bridge operator is scheduled to be present at the bridge. Vessels that can pass under the bridge without a bridge opening may do so at all times.

Assistance for Small Entities

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

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

Collection of Information

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

Federalism

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

Unfunded Mandates Reform Act

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

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

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

Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it would not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

Energy Effects

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

require a Statement of Energy Effects under Executive Order 13211.

Technical Standards

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

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

Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded that this action is one of a category of actions which does not individually or cumulatively have a significant effect on the human environment. Therefore this rule is categorically excluded, under section 2.B.2. figure 2–1, paragraph (32)(e), of the Instruction.

Under figure 2–1, paragraph (32)(e), of the Instruction, neither an environmental analysis checklist nor a categorical exclusion determination are not required for this rule.

List of Subjects in 33 CFR Part 117

Bridges.

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

PART 117—DRAWBRIDGE OPERATION REGULATIONS

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

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

■ 2. Revise 33 CFR 117.150 to read as follows:

§ 117.150 Connection Slough.

The draw of the Reclamation District No. 2027 bridge between Mandeville and Bacon Islands, mile 2.5 near Stockton, from May 15 through September 15, shall open on signal between the hours of 9 a.m. and 5 p.m., and it shall open upon 12 hours advance notice between the hours of 5 p.m. and 9 a.m.; and from September 16 through May 14 the draw shall open upon 12 hours advance notice between the hours of 9 a.m. and 5 p.m., and it shall open upon 24 hours advance notice between the hours of 5 p.m. and 9 a.m. Advance notice shall be given to the drawbridge operator by telephone at (209) 464–2959 or (209) 464–7928 weekdays between 8 a.m. and 5 p.m., and at (209) 993–8878 all other times.

Dated: June 8, 2009.

P.F. Zukunft,

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

[FR Doc. E9–14946 Filed 6–24–09; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 17

RIN 2900–AN07

Foreign Medical Program of the Department of Veterans Affairs—Hospital Care and Medical Services in Foreign Countries

AGENCY: Department of Veterans Affairs.

ACTION: Final rule.

SUMMARY: This document amends Department of Veterans Affairs (VA) medical regulations applicable to VA's Foreign Medical Program, Hospital Care and Medical Services in Foreign Countries. This rule is intended to change provisions concerning the location for filing Foreign Medical Program claims and delegations of authority for adjudicating those claims. It also corrects an obsolete regulatory citation. These changes are made for accuracy.

DATES: *Effective Date:* July 27, 2009.

FOR FURTHER INFORMATION CONTACT: Richard M. Trabert, Policy Management Division (741/PMD), VA Health Administration Center, P.O. Box 65020, Denver, CO 80206–9020; (303) 331–7549. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: This document amends certain provisions concerning VA's Foreign Medical Program (FMP) in VA's medical regulations in 38 CFR part 17. The FMP is a VA health benefits program designed for a veteran who is residing or traveling outside of the United States, if the veteran requires treatment for a VA-rated service-connected disability or any disability associated with and aggravating a service-connected disability; or if the veteran requires care for certain reasons during participation in a rehabilitation program under 38 U.S.C. chapter 31.

This rule amends 38 CFR 17.35, 17.125, and 17.141.

We are amending § 17.35, ''Hospital care and medical services in foreign countries,'' to correct an obsolete reference in § 17.35(b) to 38 CFR 17.48(j)(2). The reference is corrected to § 17.47(i)(2) to reflect the redesignation of that paragraph pursuant to two earlier final rules (see 61 FR 21964, 21965 (May 13, 1996); 65 FR 54207, 54218 (Oct. 6, 1999)).

This rule amends § 17.125, ''Where to file claims,'' to reflect a change in the mailing address for FMP claims sent to the Health Administration Center in Denver, Colorado. It also amends § 17.125, as well as § 17.141, ''Authority to adjudicate foreign reimbursement claims,'' to remove provisions that distinguish the filing and adjudication of FMP claims for services rendered in Canada from those claims for services rendered in other foreign countries. Currently, these provisions instruct claimants to file claims for services rendered in Canada with the VA Medical Center in White River Junction, Vermont, and reflect a delegation of authority to that office for adjudication of those claims. Current § 17.125 provides that claims for services rendered in other foreign countries (except the Philippines) must be mailed to the Denver Health Administration Center and § 17.141 reflects a delegation of authority to that office for adjudication of those claims. This rule removes the distinction between Canada and other foreign countries, thereby requiring claims under the FMP for services rendered in Canada to be mailed to and adjudicated by the Health Administration Center.

Administrative Procedure Act

This document merely corrects a citation to a regulatory paragraph to reflect that paragraph's redesignation and makes other changes pertaining to agency management, organization, and procedure. Accordingly, its publication as a final rule is pursuant to 5 U.S.C. 553, which exempts such a document from the notice-and-comment requirements of section 553.

Regulatory Flexibility Act

The initial and final regulatory flexibility analyses requirements of sections 603 and 604 of the Regulatory Flexibility Act, 5 U.S.C. 601–612, are not applicable to this rule, because a notice of proposed rulemaking is not required for this rule. Even so, the Secretary of Veterans Affairs hereby certifies that this regulatory amendment will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601–612. Individuals eligible for FMP benefits are widely dispersed geographically and any effect on a small entity from the provisions of this rule will be miniscule. Therefore, this final rule is also exempt pursuant to 5 U.S.C. 605(b) from the initial and final regulatory flexibility analyses requirements of section 603 and 604.

Paperwork Reduction Act of 1995

This document contains no provisions constituting a collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3521).

Unfunded Mandates

The Unfunded Mandates Reform Act of 1995 requires, at 2 U.S.C. 1532, that agencies prepare an assessment of anticipated costs and benefits before issuing any rule that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more (adjusted annually for inflation) in any year. This rule will have no such effect on State, local, and tribal governments, or on the private sector.

Executive Order 12866

Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity). The Executive Order classifies a regulatory action as a ''significant regulatory action,'' requiring review by the Office of Management and Budget (OMB) unless OMB waives such review, if it is a regulatory action that is likely to result in a rule that may: (1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

The economic, interagency, budgetary, legal, and policy implications of this final rule have been examined and it has been determined not to be a significant regulatory action under Executive Order 12866.

Catalog of Federal Domestic Assistance

The program that this rule affects has the following Catalog of Federal Domestic Assistance number and title: 64.009, Veterans Medical Care Benefits.

List of Subjects in 38 CFR Part 17

Administrative practice and procedure, Alcohol abuse, Alcoholism, Claims, Day care, Dental health, Drug abuse, Foreign relations, Government contracts, Grant programs-health, Grant programs-veterans, Health care, Health facilities, Health professions, Health records, Homeless, Medical and dental schools, Medical devices, Medical research, Mental health programs, Nursing homes, Philippines, Reporting and recordkeeping requirements, Scholarships and fellowships, Travel and transportation expenses, Veterans.

Approved: June 10, 2009.

John R. Gingrich,

Chief of Staff, Department of Veterans Affairs.

■ For the reasons stated in the preamble, VA amends 38 CFR part 17 as follows:

PART 17—MEDICAL

■ 1. Revise the authority citation for part 17 to read as follows:

Authority: 38 U.S.C. 501, 1721, and as noted in specific sections.

§ 17.35 [Amended]

■ 2. Amend § 17.35(b) by removing ''38 CFR 17.48(j)(2)'' and adding in its place ''§ 17.47(i)(2)''.

§ 17.125 [Amended]

■ 3. Amend § 17.125 by:

■ a. In paragraph (a), removing '', and'' at the end of the paragraph and adding in its place ''.''.

■ b. In paragraph (b), removing '', and'' at the end of the paragraph and adding in its place ''.''.

■ c. Removing paragraph (c) and redesignating paragraphs (d) and (e) as paragraphs (c) and (d), respectively.

■ d. In newly-redesignated paragraph (c), removing ''P.O. Box 65023, Denver, CO 80206–3023'' and adding in its place ''P.O. Box 469063, Denver, CO 80246–9063''.

§ 17.141 [Amended]

■ 4. Amend § 17.141 by removing ''Canada which will be referred to the VA Medical Center in White River Junction, VT, and''.

[FR Doc. E9–14966 Filed 6–24–09; 8:45 am]

BILLING CODE P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 1, 40, 63, 260, 261, 262, 266, 271, 750 and 761

[FRL 8911–7]

Reorganization and Name Change for the Office of Solid Waste (OSW) Within the Office of Solid Waste and Emergency Response

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: On January 18, 2009, the Office of Solid Waste (OSW) was reorganized and changed its name to the *Office of Resource Conservation and Recovery (ORCR).* The name change reflects the breadth of the responsibilities/authorities that Congress provided to EPA under the Resource Conservation and Recovery Act (RCRA), the primary authorizing statute. ORCR has three divisions, which consolidate the operations of the six divisions under the OSW structure. This reorganization will create a more efficient structure, consistent with current program priorities and resource levels, and will enable EPA to better serve the needs of the public and its key stakeholders over the next 5–10 years. EPA has increased focus on resource conservation and materials management; it is expected that focus on this important aspect of the RCRA program will continue, while maintaining a strong waste management regulatory and implementation program. EPA is taking final action to amend the Code of Federal Regulations (CFR) to reflect the reorganization and name change of the Office of Solid Waste.

DATES: This rule is effective on June 25, 2009.

FOR FURTHER INFORMATION CONTACT: Kathy Bruneske, Office of Resource Conservation and Recovery (ORCR), U.S. Environmental Protection Agency, Ariel Rios Building, 1200 Pennsylvania Avenue, NW., Washington, DC 20460–0002; telephone (703) 308–0096; fax

number (703) 308–7904; e-mail address *Bruneske.kathy@epa.gov.* For more information regarding this rule, please visit *http://www.epa.gov/epawaste/basicinfo.htm.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does This Action Apply to Me?

This action is directed to the public in general, and has particular applicability to anyone who wants to communicate with the new Office of Resource Conservation and Recovery, or to submit information to the Office. Because this action may apply to everyone, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Get Additional Information, Including Copies of This Document or Other Related Documents?

To obtain electronic copies of this document, and certain other related documents that are available electronically, please visit *http://www.epa.gov/epawaste/basicinfo.htm.*

II. Background

A. What Action Is the Agency Taking?

In recent years, EPA has been increasing its focus on resource conservation and materials management. It is expected that this will continue; thus, the new organization increases emphasis on this important aspect of the RCRA program, while maintaining a strong waste management regulatory and implementation program.

The reorganization consolidates operations from six to three divisions and adds a program management staff to the Immediate Office. The reorganization creates a more efficient structure, consistent with current Office priorities.

The reorganization consolidates complementary functions in order to achieve efficiencies in operations. The reorganization:

—Consolidates the four major areas of the Resource Conservation Challenge (RCC) under one division;

—Combines data collection and data analysis activities thus streamlining operations to better coordinate efforts to analyze and present the benefits of the RCRA program; and

—Consolidates waste-to-energy activities in one division and branch.

The three divisions in the new organization are: The Materials Recovery and Waste Management Division; the Resource Conservation and Sustainability Division; and, the Program Implementation and Information Division.

In addition to announcing the reorganization, EPA is amending the Code of Federal Regulations to reflect the new name of the Office of Solid Waste.

B. What Is the Agency's Authority for Taking This Action?

EPA is issuing this document under its general rulemaking authority, Reorganization Plan No. 3 of 1970 (5 U.S.C. app.).

Section 553 of the Administrative Procedure Act (APA), 5 U.S.C. 553(b)(3)(A), provides that ''rules of agency organization, procedure, or practice'' are exempt from notice and comment requirements. Accordingly, EPA is not taking comment on this action.

III. Statutory and Executive Order Reviews

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and is therefore not subject to OMB review. Because this action is not subject to notice and comment requirements under the Administrative Procedures Act or any other statute, it is not subject to the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) or Sections 202 and 205 of the Unfunded Mandates Reform Act of 1999 (UMRA) (Pub. L. 104–4). In addition, this action does not significantly or uniquely affect small governments. This action does not create new binding legal requirements that substantially and directly affect Tribes under Executive Order 13175 (63 FR 67249, November 9, 2000). This action does not have significant Federalism implications under Executive Order 13132 (64 FR 43255, August 10, 1999). This action is not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001), because it is not a significant regulatory action under Executive Order 12866. This action does not involve technical standards; thus, the requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This action does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). The Congressional Review Act, 5 U.S.C. 801 *et seq.,* generally provides that before certain actions may take effect, the agency promulgating the action must submit a report, which includes a copy of the action, to each House of the Congress and to the Comptroller General of the United States. Because this final action does not contain legally binding requirements, it is not subject to the Congressional Review Act.

List of Subjects

40 CFR Part 1

Organization and functions.

40 CFR Part 40

Grants administration.

40 CFR Part 63

Environmental protection.

40 CFR Parts 260, 261, and 262

Environmental protection, Hazardous waste.

40 CFR Part 266

Environmental protection, Hazardous waste, Waste treatment and disposal.

40 CFR Part 271

Environmental protection, Hazardous waste.

40 CFR Part 750

Administrative practice and procedure.

40 CFR Part 761

Environmental protection, Hazardous waste.

Dated: May 26, 2009.

Barry N. Breen,

Acting Assistant Administrator, Office of Solid Waste and Emergency Response.

■ For the reasons set out in the preamble, title 40 Chapter I of the Code of Federal Regulations is amended as follows:

PART 1—STATEMENT OF ORGANIZATION AND GENERAL INFORMATION

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

Authority: 5 U.S.C. 552

■ 2. Section 1.47 is amended by revising the paragraph heading and the first sentence in paragraph (b) to read as follows:

§ 1.47 Office of Solid Waste and Emergency Response.

* * * * *

(b) *Office of Resource Conservation and Recovery.* The Office of Resource Conservation and Recovery, under the supervision of a Director, is responsible

for the solid and hazardous waste activities of the Agency. * * *

* * * * *

PART 40—RESEARCH AND DEMONSTRATION GRANTS

■ 3. The authority citation for part 40 continues to read as follows:

Authority: 7 U.S.C. 136 *et seq.*; 15 U.S.C. 2609 *et seq.*; 33 U.S.C. 1254 *et seq.* and 1443; 42 U.S.C. 241 *et seq.*, 300f *et seq.*, 1857 *et seq.*, 1891 *et seq.*, and 6901 *et seq.*

■ 4. Section 40.135–1 is amended by revising paragraph (b) to read as follows:

§ 40.135–1 Preapplication coordination.

* * * * *

(b) Applications for grants for demonstration projects funded by the Office of Resource Conservation and Recovery will be solicited through the Department of Commerce Business Daily, and selections will be made on a competitive basis.

PART 63—NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS FOR SOURCE CATEGORIES

■ 5. The authority citation for part 63 continues to read as follows:

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

■ 6. Appendix D to part 63 is amended by revising Section 1. to read as follows:

Appendix D to Part 63—Alternative Validation Procedure for EPA Waste and Wastewater Methods

1. Applicability

This procedure is to be applied exclusively to Environmental Protection Agency methods developed by the Office of Water and the Office of Resource Conservation and Recovery. Alternative methods developed by any other group or agency shall be validated according to the procedures in Sections 5.1 and 5.3 of Test Method 301, 40 CFR Part 63, Appendix A. For the purposes of this appendix, ''waste'' means waste and wastewater.

* * * * *

PART 260—HAZARDOUS WASTE MANAGEMENT SYSTEM: GENERAL

■ 7. The authority citation for part 260 continues to read as follows:

Authority: 42 U.S.C. 6905, 6912(a), 6921–6927, 6930, 6934, 6935, 6937, 6938, 6939, and 6974.

■ 8. Section 260.21 is amended by revising paragraph (d) to read as follows:

§ 260.21 Petitions for equivalent testing or analytical methods.

* * * * *

(d) If the Administrator amends the regulations to permit use of a new testing method, the method will be incorporated by reference in § 260.11 and added to ''Test Methods for Evaluating Solid Waste, Physical/Chemical Methods,'' EPA Publication SW–846, U.S. Environmental Protection Agency, Office of Resource Conservation and Recovery, Washington, DC 20460.

PART 261—IDENTIFICATION AND LISTING OF HAZARDOUS WASTE

■ 9. The authority citation for part 261 continues to read as follows:

Authority: 42 U.S.C. 6905, 6912(a), 6921, 6922, 6924(y) and 6938.

■ 10. Appendix IX to part 261 is amended by revising entry (5) under Waste Description for Aptus, Inc. in Table 1 to read as follows:

Appendix IX to Part 261—Wastes Excluded Under Sections 260.20 and 260.22

TABLE 1—WASTES EXCLUDED FROM NON-SPECIFIC SOURCES

Facility	Address	Waste description
*	* * *	* * * * * * *
Aptus, Inc	* * *	(5) The test data from Conditions (1), (2), (3), and (4) must be kept on file by Aptus for inspection purposes and must be compiled, summarized, and submitted to the Director for the Materials Recovery and Waste Management Division, Office of Resource Conservation and Recovery, by certified mail on a monthly basis and when the treatment of the cancelled pesticides and related materials is concluded. The testing requirements for Conditions (2), (3), and (4) will continue until Aptus provides the Director with the results of four consecutive batch analyses for the petitioned wastes, none of which exceed the maximum allowable levels listed in these conditions and the Director notifies Aptus that the conditions have been lifted. All data submitted will be placed in the RCRA public docket.
*	* * *	* * * * * * *

PART 262—STANDARDS APPLICABLE TO GENERATORS OF HAZARDOUS WASTE

■ 11. The authority citation for part 262 continues to read as follows:

Authority: 42 U.S.C. 6906, 6912, 6922–6925, 6937, and 6938.

■ 12. Section 262.21 is amended by revising paragraphs (a)(1), (b) introductory text, (b)(8), (h)(1), and (h)(2) to read as follows:

§ 262.21 Manifest tracking numbers, manifest printing, and obtaining manifest.

(a)(1) A registrant may not print, or have printed, the manifest for use of distribution unless it has received approval from the EPA Director of the Office of Resource Conservation and Recovery to do so under paragraphs (c) and (e) of this section.

* * * * *

(b) A registrant must submit an initial application to the EPA Director of the Office of Resource Conservation and Recovery that contains the following information:

* * * * *

(8) A signed certification by a duly authorized employee of the registrant that the organizations and companies in its application will comply with the procedures of its approved application and the requirements of this section and that it will notify the EPA Director of the Office of Resource Conservation and Recovery of any duplicated manifest tracking numbers on manifests that have been used or distributed to other parties as soon as this becomes known.

* * * * *

(h)(1) If an approved registrant would like to update any of the information provided in its application approved

under paragraph (c) of this section (e.g., to update a company phone number or name of contact person), the registrant must revise the application and submit it to the EPA Director of the Office of Resource Conservation and Recovery, along with an indication or explanation of the update, as soon as practicable after the change occurs. The Agency either will approve or deny the revision. If the Agency denies the revision, it will explain the reasons for the denial, and it will contact the registrant and request further modification before approval.

(2) If the registrant would like a new tracking number suffix, the registrant must submit a proposed suffix to the EPA Director of the Office of Resource Conservation and Recovery, along with the reason for requesting it. The Agency will either approve the suffix or deny the suffix and provide an explanation why it is not acceptable.

* * * * *

PART 266—STANDARDS FOR THE MANAGEMENT OF SPECIFIC HAZARDOUS WASTES AND SPECIFIC TYPES OF HAZARDOUS WASTE MANAGEMENT FACILITIES

■ 13. The authority citation for part 266 continues to read as follows:

Authority: 42 U.S.C. 1006, 2002(a), 3001–3009, 3014, 6905, 6906, 6912, 6921, 6922, 6924–6927, 6934, and 6937.

■ 14. Appendix IX to Part 266 is amended by revising Section 7.3 to read as follows:

Appendix IX to Part 266—Methods Manual for Compliance With the BIF Regulations

* * * * *

7.3 Normal Distribution Assumption

As noted in Section 7.2 above, this statistical approach (use of the upper tolerance limit) for calculation of the concentration in normal residue is based on the assumption that the concentration data are distributed normally. The Agency is aware that concentration data of this type may not always be distributed normally, particularly when concentrations are near the detection limits. There are a number of procedures that can be used to test the distribution of a data set. For example, the Shapiro-Wilk test, examination of a histogram or plot of the data on normal probability paper, and examination of the coefficient of skewness are methods that may be applicable, depending on the nature of the data (References 1 and 2).

If the concentration data are not adequately represented by a normal distribution, the data may be transformed to attain a near normal distribution. The Agency has found that concentration data, especially when near detection levels, often exhibit a lognormal distribution. The assumption of a lognormal distribution has been used in various programs at EPA, such as in the Office of Resource Conservation and Recovery Land Disposal Restrictions program for determination of BDAT treatment standards. The transformed data may be tested for normality using the procedures identified above. If the transformed data are better represented by a normal distribution than the untransformed data, the transformed data should be used in determining the upper tolerance limit using the procedures in Section 7.2 above.

In all cases where the owner or operator wishes to use other than an assumption of normally distributed data or believes that use of an alternate statistical approach is appropriate to the specific data set, he/she must provide supporting rationale in the operating record that demonstrates that the data treatment is based upon sound statistical practice.

* * * * *

PART 271—REQUIREMENTS FOR AUTHORIZATION OF STATE HAZARDOUS WASTE PROGRAMS

■ 15. The authority citation for part 271 continues to read as follows:

Authority: 42 U.S.C. 6905, 6912(a), and 6926.

■ 16. Section 271.1 is amended by revising the entry for ''Office of Solid Waste Burden Reduction Project'' in Table 1 to read as follows:

§ 271.1 Purpose and scope.

* * * * *

TABLE 1—REGULATIONS IMPLEMENTING THE HAZARDOUS AND SOLID WASTE AMENDMENTS OF 1984

Promulgation date	Title of regulation	**Federal Register** reference	Effective date
* * * * * * *			
May 4, 2006	Office of Resource Conservation and Recovery Burden Reduction Project.	71 FR 16862–16915	May 4, 2006.
* * * * * * *			

■ 17. Section 271.21 is amended by revising the entry for ''Office of Solid Waste Testing and Monitoring Activities, Methods Innovation Rule'' in Table 1 to read as follows:

§ 271.21 Procedures for revision of State programs.

* * * * *

TABLE 1 TO § 271.21

Title of regulation	Promulgation date	**Federal Register** reference
* * * * * * *		
Office of Resource Conservation and Recovery Testing and Monitoring Activities, Methods Innovation Rule.	July 14, 2005	70 FR 34538, June 14, 2005.
* * * * * * *		

PART 750—PROCEDURES FOR RULEMAKING UNDER SECTION 6 OF THE TOXIC SUBSTANCES CONTROL ACT

■ 18. The authority citation for part 750 continues to read as follows:

Authority: 15 U.S.C. 2605.

■ 19. Section 750.11 is amended by revising paragraph (b)(2) to read as follows:

§ 750.11 Filing of petitions for exemption.

* * * * *

(b) * * *

(2) PCB disposal, which includes cleanup, storage for disposal, processing related to disposal, distribution in commerce related to disposal or processing for disposal, and decontamination, must be submitted to: Document Control Officer, Office of Resource Conservation and Recovery (5305P), Environmental Protection Agency, 1200 Pennsylvania, NW., Washington, DC 20460–0001.

* * * * *

■ 20. Section 750.31 is amended by revising paragraph (b)(2) to read as follows:

§ 750.31 Filing of petitions for exemption.

* * * * *

(b) * * *

(2) PCB disposal, which includes cleanup, storage for disposal, processing related to disposal, distribution in commerce related to disposal or processing for disposal, and decontamination, must be submitted to: Document Control Officer, Office of Resource Conservation and Recovery (5305P), Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460–0001.

* * * * *

PART 761—POLYCHLORINATED BIPHENYLS (PCBs) MANUFACTURING, PROCESSING, DISTRIBUTION IN COMMERCE, AND USE PROHIBITIONS

■ 21. The authority citation for part 761 continues to read as follows:

Authority: 15 U.S.C. 2605, 2607, 2611, 2614, and 2616.

■ 22. Section 761.60 is amended by revising paragraph (e) to read as follows:

§ 761.60 Disposal requirements.

* * * * *

(e) Any person who is required to incinerate any PCBs and PCB items under this subpart and who can demonstrate that an alternative method of destroying PCBs and PCB items exists and that this alternative method can achieve a level of performance equivalent to an incinerator approved under § 761.70 or a high efficiency boiler operating in compliance with § 761.71, must submit a written request to the Regional Administrator or the Director, Office of Resource Conservation and Recovery, for a waiver from the incineration requirements of § 761.70 or § 761.71. Requests for approval of alternate methods that will be operated in more than one Region must be submitted to the Director, Office of Resource Conservation and Recovery, except for research and development activities involving less than 500 pounds of PCB material (see paragraph (i)(2) of this section). Requests for approval of alternate methods that will be operated in only one Region must be submitted to the appropriate EPA Regional Administrator. The applicant must show that his or her method of destroying PCBs will not present an unreasonable risk of injury to health or the environment. On the basis of such information and any available information, EPA may, in its discretion, approve the use of the alternate method if it finds that the alternate disposal method provides PCB destruction equivalent to disposal in a § 761.60 incinerator or a § 761.61 high efficiency boiler and will not present an unreasonable risk of injury to health or the environment. Any approval must be stated in writing and may include such conditions and provisions as EPA deems appropriate. The person to whom such waiver is issued must comply with all limitations contained in such determination. No person may use the alternate method of destroying PCBs or PCB items prior to obtaining permission from the appropriate EPA official.

* * * * *

■ 23. Section 761.61 is amended by revising paragraph (c)(1) to read as follows:

§ 761.61 PCB remediation waste.

* * * * *

(c) * * * (1) Any person wishing to sample, cleanup, or dispose of PCB remediation waste in a manner other than prescribed in paragraphs (a) or (b) of this section, or store PCB remediation waste in a manner other than prescribed in § 761.65, must apply in writing to the Regional Administrator in the Region where the sampling, cleanup, disposal, or storage site is located, for sampling, cleanup, disposal, or storage occurring in a single EPA Region; or to the Director, Office of Resource Conservation and Recovery, for sampling, cleanup, disposal, or storage occurring in more than one EPA Region. Each application must include information described in the notification required by paragraph (a)(3) of this section. EPA may request other information that it believes necessary to evaluate the application. No person may conduct cleanup activities under this paragraph prior to obtaining written approval by EPA.

* * * * *

■ 24. Section 761.62 is amended by revising paragraph (c)(1) to read as follows:

§ 761.62 Disposal of PCB bulk product waste.

* * * * *

(c) * * * (1) Any person wishing to sample or dispose of PCB bulk product waste in a manner other than prescribed in paragraphs (a) or (b) of this section, or store PCB bulk product waste in a manner other than prescribed in § 761.65, must apply in writing to the Regional Administrator in the Region where the sampling, disposal, or storage site is located, for sampling, disposal, or storage occurring in a single EPA Region; or to the Director, Office of Resource Conservation and Recovery, for sampling, disposal, or storage occurring in more than one EPA Region. Each application must contain information indicating that, based on technical, environmental, or waste-specific characteristics or considerations, the proposed sampling, disposal, or storage methods or locations will not pose an unreasonable risk or injury to health or the environment. EPA may request other information that it believes necessary to evaluate the application. No person may conduct sampling, disposal, or storage activities under this paragraph prior to obtaining written approval by EPA.

* * * * *

■ 25. Section 761.65 is amended as follows:

■ a. By revising paragraph (d)(8).

■ b. By revising paragraph (e)(4) introductory text.

■ c. By revising paragraph (e)(6)(i).

■ d. By revising paragraph (e)(8),

■ e. By revising paragraph (g)(1)(ii).

§ 761.65 Storage for disposal.

* * * * *

(d) * * *

(8) The approval of any existing TSCA-approved disposal facility ancillary to a commercial storage facility that is deficient in any of the conditions of paragraph (d)(7)(i) through (d)(7)(v) of this section shall be called in by the Regional Administrator (or the appropriated official at EPA Headquarters, if approval was granted

by an official at EPA Headquarters). The approval shall be modified to meet the requirements of paragraph (d)(7) of this section within 180 days of the effective date of this final rule, or a separate application for approval of the storage facility may be submitted to the Regional Administrator or the Director, Office of Resource Conservation and Recovery, in the cases where an official at EPA Headquarters issued the approval.

* * * * *

(e) * * *

(4) The commercial storer of PCB waste shall submit a written request to the Regional Administrator (or the Director, Office of Resource Conservation and Recovery, if an official at EPA Headquarters approved the closure plan) for a modification to its storage approval to amend its closure plan, whenever:

* * * * *

(6) * * *

(i) The commercial storer shall notify in writing the Regional Administrator or the Director, Office of Resource Conservation and Recovery, if an official at EPA Headquarters approved the closure plan, at least 60 days prior to the date on which final closure of its PCB storage facility is expected to begin.

* * * * *

(8) Within 60 days of completion of closure of each facility for the storage of PCB waste, the commercial storer of PCB waste shall submit to the Regional Administrator (or the Director, Office of Resource Conservation and Recovery, if an official at EPA Headquarters approved the closure plan), by registered mail, a certification that the PCB storage facility has been closed in accordance with the approved closure plan. The certification shall be signed by the owner or operator and by an independent registered professional engineer.

* * * * *

(g) * * *

(1) * * *

(ii) For a new facility, the first payment into the closure trust fund shall be made before EPA grants final approval of the application and before the facility may accept the initial shipment of PCB waste for commercial storage. A receipt from the trustee shall be submitted by the owner or operator to the Regional Administrator (or the Director, Office of Resource Conservation and Recovery, if the commercial storage area is ancillary to a disposal facility approved by an official at EPA Headquarters) before this initial delivery of PCB waste. The first payment shall be at least equal to the current closure cost estimate, divided by the number of years in the pay-in period, except as provided in paragraph (g)(7) of this section for multiple mechanisms. Subsequent payments shall be made no later than 30 days after each anniversary date of the first payment. The amount of each subsequent payment shall be determined by subtracting the current value of the trust fund from the current closure cost estimate, and dividing this difference by the number of years remaining in the pay-in period.

* * * * *

■ 26. Section 761.70 is amended as follows:

■ a. By revising paragraph (a) introductory text.

■ b. By revising paragraph (b) introductory text.

■ c. By revising paragraph (d)(1) introductory text.

■ d. By revising paragraph (d)(2)(ii) introductory text.

■ e. By revising paragraph (d)(5).

§ 761.70 Incineration.

* * * * *

(a) *Liquid PCBs.* An incinerator used for incinerating PCBs shall be approved by EPA pursuant to paragraph (d) of this section. Requests for approval of incinerators to be used in more than one region must be submitted to the Director, Office of Resource Conservation and Recovery, except for research and development involving less than 500 pounds of PCB material (see § 761.60(i)(2)). Requests for approval of incinerators to be used in only one region must be submitted to the appropriate Regional Administrator. The incinerator shall meet all of the requirements specified in paragraphs (a)(1) through (9) of this section, unless a waiver from these requirements is obtained pursuant to paragraph (d)(5) of this section, In addition, the incinerator shall meet any other requirements which may be prescribed pursuant to paragraph (d)(4) of this section.

* * * * *

(b) *Nonliquid PCBs.* An incinerator used for incinerating nonliquid PCBs, PCB Articles, PCB Equipment, or PCB Containers shall be approved by EPA pursuant to paragraph (d) of this section. Requests for approval of incinerators to be used in more than one region must be submitted to the Director, Office of Resource Conservation and Recovery except for research and development involving less that 500 pounds of PCB material (see § 761.60(i)(2)). Requests for approval of incinerators to be used in only one region must be submitted to the appropriate Regional Administrator. The incinerator shall meet all of the requirements specified in paragraphs (b)(1) and (2) of this section unless a waiver from these requirements is obtained pursuant to paragraph (d)(5) of this section. In addition, the incinerator shall meet any other requirements that may be prescribed pursuant to paragraph (d)(4) of this section.

* * * * *

(d) * * *

(1) *Application.* The owner or operator shall submit to the Regional Administrator or the Director, Office of Resource Conservation and Recovery an application which contains:

* * * * *

(2) * * *

(ii) If EPA determines that a trail burn must be held, the person who submitted the report described in paragraph (d)(1) of this section shall submit to the Regional Administrator or the Director, Office of Resource Conservation and Recovery a detailed plan for conducting and monitoring the trail burn. At a minimum, the plan must include:

* * * * *

(5) *Waivers.* An owner or operator of the incinerator may submit evidence to the Regional Administrator or the Director, Office of Resource Conservation and Recovery that operation of the incinerator will not present an unreasonable risk of injury to health or the environment from PCBs, when one or more of the requirements of paragraphs (a) and/or (b) of this section are not met. On the basis of such evidence and any other available information, EPA may, in its discretion, find that any requirement of paragraphs (a) and (b) of this section is not necessary to protect against such a risk, and may waive the requirements in any approval for that incinerator. Any finding and waiver under this paragraph must be stated in writing and included as part of the approval.

* * * * *

■ 27. Section 761.79 is amended by revising paragraphs (h)(1), (h)(2), and (h)(3) to read as follows:

§ 761.79 Decontamination standards and procedures.

* * * * *

(h) * * *

(1) Any person wishing to decontaminate material described in paragraph (a) of this section in a manner other than prescribed in paragraph (b) of this section must apply in writing to the Regional Administrator in the Region where the activity would take place, for decontamination activity occurring in a single EPA Region; or to the Director,

Office of Resource Conservation and Recovery, for decontamination activity occurring in more than one EPA Region. Each application must describe the material to be decontaminated and the proposed decontamination method, and must demonstrate that the proposed method is capable of decontaminating the material to the applicable level set out in paragraphs (b)(1) through (b)(4) of this section.

(2) Any person wishing to decontaminate material described in paragraph (a) of this section using a self-implementing procedure other than prescribed in paragraph (c) of this section must apply in writing to the Regional Administrator in the Region where the activity would take place, for decontamination activity occurring in a single EPA Region; or to the Director, Office of Resource Conservation and Recovery, for decontamination activity occurring in more than one EPA Region. Each application must describe the material to be decontaminated and the proposed self-implementing decontamination method and must include a proposed validation study to confirm performance of the method.

(3) Any person wishing to sample decontaminated material in a manner other than prescribed in paragraph (f) of this section must apply in writing to the Regional Administrator in the Region where the activity would take place, for decontamination activity occurring in a single EPA Region; or to the Director, Office of Resource Conservation and Recovery, for decontamination activity occurring in more than one EPA Region. Each application must contain a description of the material to be decontaminated, the nature and PCB concentration of the contaminating material (if known), the decontamination method, the proposed sampling procedure, and a justification for how the proposed sampling is equivalent to or more comprehensive than the sampling procedure required under paragraph (f) of this section.

* * * * *

■ 28. Section 761.120 is amended as follows:

■ a. By revising paragraph (a)(3).

■ b. By revising paragraph (b) introductory text.

■ c. By revising paragraph (b)(2).

■ d. By revising paragraph (c).

§ 761.120 Scope.

(a) * * *

(3) For all other spills, EPA generally expects the decontamination standards of this policy to apply. Occasionally, some small percentage of spills covered by this policy may warrant more stringent cleanup requirements because of additional routes of exposure or significantly greater exposures than those assumed in developing the final cleanup standards of this policy. While the EPA regional offices have the authority to require additional cleanup in these circumstances, the Regional Administrator must first make a finding based on the specific facts of a spill that additional cleanup must occur to prevent unreasonable risk. In addition, before a final decision is made to require additional cleanup, the Regional Administrator must notify the Director, Office of Resource Conservation and Recovery of his/her finding and the basis for the finding.

* * * * *

(b) *Spills that may require more stringent cleanup levels.* For spills within the scope of this policy, EPA generally retains, under § 761.135, the authority to require additional cleanup upon finding that, despite good faith efforts by the responsible party, the numerical decontamination levels in the policy have not been met. In addition, EPA foresees the possibility of exceptional spill situations in which site-specific risk factors may warrant additional cleanup to more stringent numerical decontamination levels than are required by the policy. In these situations, the Regional Administrator has the authority to require cleanup to levels lower than those included in this policy upon finding that further cleanup must occur to prevent unreasonable risk. The Regional Administrator will consult with the Director, Office of Resource Conservation and Recovery, prior to making such a finding.

* * * * *

(2) In those situations, the Regional Administrator may require cleanup in addition to that required under § 761.125(b) and (c). However, the Regional Administrator must first make a finding, based on the specific facts of a spill, that additional cleanup is necessary to prevent unreasonable risk. In addition, before making a final decision on additional cleanup, the Regional Administrator must notify the Director, Office of Resource Conservation and Recovery of his finding and the basis for the finding.

(c) *Flexibility to allow less stringent or alternative requirements.* EPA retains the flexibility to allow less stringent or alternative decontamination measures based upon site-specific considerations. EPA will exercise this flexibility if the responsible party demonstrates that cleanup to the numerical decontamination levels is clearly unwarranted because of risk-mitigating factors, that compliance with the procedural requirements or numerical standards in the policy is impracticable at a particular site, or that site-specific characteristics make the costs of cleanup prohibitive. The Regional Administrator will notify the Director, Office of Resource Conservation and Recovery of any decision and the basis for the decision to allow less stringent cleanup. The purpose of this notification is to enable the Director, Office of Resource Conservation and Recovery to ensure consistency of spill cleanup standards under special circumstances across the regions.

* * * * *

■ 29. Section 761.130 is amended by revising paragraph (e) to read as follows:

§ 761.130 Sampling requirements.

* * * * *

(e) EPA recommends the use of a sampling scheme developed by the Midwest Research Institute (MRI) for use in enforcement inspections: ''Verification of PCB Spill Cleanup by Sampling and Analysis.'' Guidance for the use of this sampling scheme is available in the MRI report ''Field Manual for Grid Sampling of PCB Spill Sites to Verify Cleanup.'' Both the MRI sampling scheme and the guidance document are available on EPA's PCB Web site at *http://www.epa.gov/pcb*, or from the Program Management, Communications, and Analysis Office, Office of Resource Conservation and Recovery (5305P), 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001. The major advantage of this sampling scheme is that it is designed to characterize the degree of contamination within the entire sampling area with a high degree of confidence while using fewer samples than any other grid or random sampling scheme. This sampling scheme also allows some sites to be characterized on the basis of composite samples.

* * * * *

■ 30. Section 761.205 is amended by revising paragraphs (a)(3) and (d) to read as follows:

§ 761.205 Notification of PCB waste activity (EPA Form 7710–53).

(a) * * *

(3) Any person required to notify EPA under this section shall file with EPA Form 7710–53. Copies of EPA Form 7710–53 are available on EPA's Web site at *http://www.epa.gov/pcb,* or from the Program Management, Communications, and Analysis Office, Office of Resource Conservation and Recovery (5305P), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington,

DC 20460–0001. Descriptive information and instructions for filling in the form are included in paragraphs (a)(4)(i) through (vii) of this section.

* * * * *

(d) Persons required to notify under this section shall file EPA Form 7710–53 with EPA by mailing the form to the following address: Document Control Officer, Office of Resource Conservation and Recovery (5305P), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001.

* * * * *

■ 31. Section 761.243 is amended by revising paragraph (a) to read as follows:

§ 761.243 Standard wipe sample method and size.

(a) Collect a surface sample from a natural gas pipe segment or pipeline section using a standard wipe test as defined in § 761.123. Detailed guidance for the entire wipe sampling process appears in the document entitled, ''Wipe Sampling and Double Wash/Rinse Cleanup as Recommended by the Environmental Protection Agency PCB Spill Cleanup Policy,'' dated June 23, 1987 and revised on April 18, 1991. This document is available on EPA's Web site at *http://www.epa.gov/pcb*, or from the Program Management, Communications, and Analysis Office, Office of Resource Conservation and Recovery (5305P), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001.

* * * * *

■ 32. Section 761.386 is amended by revising paragraph (e) to read as follows:

§ 761.386 Required experimental conditions for the validation study and subsequent use during decontamination.

* * * * *

(e) *Confirmatory sampling for the validation study.* Select surface sample locations using representative sampling or a census. Sample a minimum area of 100 cm^2 on each individual surface in the validation study. Measure surface concentrations using the standard wipe test, as defined in § 761.123, from which a standard wipe sample is generated for chemical analysis. Guidance for wipe sampling appears in the document entitled ''Wipe Sampling and Double Wash/Rinse Cleanup as Recommended by the Environmental Protection Agency PCB Spill Cleanup Policy,'' available on EPA's Web site at *http://www.epa.gov/pcb*, or from the Program Management, Communications, and Analysis Office, Office of Resource Conservation and Recovery (5305P), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001.

* * * * *

■ 33. Section 761.398 is amended by revising paragraph (a) to read as follows:

§ 761.398 Reporting and recordkeeping.

(a) Submit validation study results to the Director, Office of Resource Conservation and Recovery (5301P), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001, prior to the first use of a new solvent for alternate decontamination under § 761.79(d)(4). The use of a new solvent is not TSCA Confidential Business Information (CBI). From time to time, EPA will confirm the use of validated new decontamination solvents and publish the new solvents and validated decontamination procedures in the **Federal Register**.

* * * * *

[FR Doc. E9–14859 Filed 6–24–09; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R04–OAR–2008–0676–200820(a); FRL–8903–6]

Approval and Promulgation of Air Quality Implementation Plans; Tennessee; Approval of Revisions to the Knox County Portion

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action to approve a revision to the Knox County portion of the Tennessee State Implementation Plan (SIP) submitted by the State of Tennessee on April 21, 2008. The revision pertains to the Knox County Department of Air Quality Management (KCDAQM) Regulation, Section 25.0 ''Permits,'' specifically subsection 25.6—Exemptions. This revision removes ''mobile sources'' from the list of exempted air contaminant sources, with respect to operating permits and reserves subsection 25.6.A. This revision is part of KCDAQM strategy to attain and maintain the National Ambient Air Quality Standards for 8-hour ozone, particulate matter $(PM)_{2.5}$ and PM_{10}. This revision was certified by the Tennessee Department of Environment and Conservation to be at least as stringent as the State of Tennessee's existing requirements in Chapter 1200–3–9–.04 ''Exemptions,'' and is being approved pursuant to section 110 of the Clean Air Act (CAA).

DATES: This direct final rule is effective August 24, 2009 without further notice, unless EPA receives adverse comment by July 27, 2009. If EPA receives such comments, it will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID No EPA–R04–OAR–2008–0676, by one of the following methods:

1. *www.regulations.gov:* Follow the on-line instructions for submitting comments.
2. *E-mail: benjamin.lynorae@epa.gov.*
3. *Fax:* (404) 562–9019.
4. *Mail:* ''EPA–R04–OAR–2008–0676,'' Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960.
5. *Hand Delivery or Courier:* Ms. Lynorae Benjamin, Chief, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960. Such deliveries are only accepted during the Regional Office's normal hours of operation. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30, excluding Federal holidays.

Instructions: Direct your comments to Docket ID No. ''EPA–R04–OAR–2008–0676.'' EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit through *www.regulations.gov* or e-mail, information that you consider to be CBI or otherwise protected. The *www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *www.regulations.gov,* your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you

submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm.*

Docket: All documents in the electronic docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy at the Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30, excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: Ms. Twunjala Bradley, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960. The telephone number is (404) 562–9352. Ms. Bradley can also be reached via electronic mail at *bradley.twunjala@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background and Analysis of Submittal

On April 21, 2008, the State of Tennessee submitted a revision to the Knox County portion of the Tennessee SIP, which included a change to the KCDAQM Regulations Section 25.0 ''Permits''—Exemptions (25.6). This change was approved by the Knox County Air Pollution Control Board on January 16, 2008.

The purpose of this revision is to remove ''mobile sources'' (25.6.A) from the Exemption list of Section 25.6 to prevent significant sources of air pollution (e.g. large diesel generator powered rock crusher, asphalt plant or distillation units) from invoking exemptions from obtaining a major source operating permit because of potential mobility of the device. These devices use portable engines, and in some cases, the equipment is only mounted on skids, wheels, or tires without any self-propulsion capabilities, which sources interpret as a mobile source. These devices may emit significant amounts of nitrogen oxides, a precursor to ozone pollution. According to KCDAQM, the applicability of the terms stationary and mobile, in the permitting context, have been misinterpreted. Mobile sources are described in the KCDAQM Regulations Section 25.6.A as ''automobiles, trucks, buses, locomotives, planes, boats, and ships.'' In addition, KCDAQM Regulations define ''stationary source'' as a fixed site producer of pollution including power plants and other facilities using industrial combustion processes. This SIP revision would prevent sources from attempting to claim exemption status for portable devices as mobile sources by removing ''mobile sources'' from the list of exempted sources and reserving 25.6.A. This change was certified by the State of Tennessee to be at least as stringent as existing requirements under the SIP.

II. Final Action

EPA is now taking direct final action to approve the aforementioned change to the Knox County portion of the Tennessee SIP, pursuant to section 110 of the CAA.

EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. However, in the proposed rules section of this **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision should adverse comments be filed. This rule will be effective August 24, 2009 without further notice unless the Agency receives adverse comments by July 27, 2009.

If EPA receives such comments, then EPA will publish a document withdrawing the final rule and informing the public that the rule will not take effect. All public comments received will then be addressed in a subsequent final rule based on the proposed rule. EPA will not institute a second comment period. Parties interested in commenting should do so at this time. If no such comments are received, the public is advised that this rule will be effective on August 24, 2009 and no further action will be taken on the proposed rule.

III. Statutory and Executive Order Reviews:

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

- Is not a ''significant regulatory action'' subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of voluntary consensus standards would be inconsistent with the CAA; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by

Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

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

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by August 24, 2009. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the proposed rules section of today's **Federal Register**, rather than file an immediate petition for judicial review of this direct final rule, so that EPA can withdraw this direct final rule and address the comment in the proposed rulemaking. This action may not be challenged later in proceedings to enforce its requirements. (*See* section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Ozone, Particulate matter.

Dated: June 15, 2009.

Beverly H. Banister,

Acting Regional Administrator, Region 4.

■ 40 CFR part 52 is amended as follows:

PART 52—[AMENDED]

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

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

Subpart RR—Tennessee

■ 2. Section 52.2220(c) Table 3 is amended by revising the entry for Section 25.0 to read as follows:

§ 52.2220 Identification of plan.

* * * * *

(c) * * *

TABLE 3—EPA APPROVED KNOX COUNTY, REGULATIONS

State citation	Title/subject	State effective date	EPA approval date	Explanation
* *	*	* *	*	*
Section 25.0	Permits	January 16, 2008	June 25, 2009 [Insert citation of publication].	
* *	*	* *	*	*

* * * * *

[FR Doc. E9–14873 Filed 6–24–09; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

49 CFR Part 661

[Docket No. FTA–2008–0057]

RIN 2132–AA99

Buy America Requirements; Bi-Metallic Composite Conducting Rail

AGENCY: Federal Transit Administration (FTA), DOT.

ACTION: Final rule; correcting amendment.

SUMMARY: Following the two recent Buy America rulemakings pursuant to the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA–LU), the Federal Transit Administration (FTA) received a petition for reconsideration of the treatment of bi-metallic composite conducting rail as a steel product that must be manufactured in the United States.

Because FTA believed adopting the petitions through a Final Rule would have altered the regulatory environment without notice-and-comment from all affected parties who may have been unaware of the petition, FTA declined to accept the petition and instead issued a Notice of Proposed Rulemaking.

Through this Final Rule, FTA is amending its Buy America regulation to include bi-metallic composite conducting rail on the list of traction power equipment. As such, bi-metallic rail need only consist of 60 percent domestic content, with final assembly taking place in the United States.

In addition, FTA is amending Appendix A of section 661.7 to restore the public interest waivers for small purchases which was inadvertently deleted and to update a cross reference to the list of products exempted under the Buy American Act of 1933, and amending statutory references in the compliance certifications in section 661.12

DATES: *Effective Date:* July 27, 2009.

FOR FURTHER INFORMATION CONTACT: Richard L. Wong, Office of the Chief Counsel, Federal Transit Administration, 1200 New Jersey Avenue, SE., Washington, DC 20590, (202) 366–4011 or *Richard.Wong@dot.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

On November 24, 2008, FTA published a Notice of Proposed Rulemaking (NPRM) (73 FR 70950) seeking public comment whether bi-metallic rail used as part of a power traction system should continue to be treated as a steel or iron product under section 661.3, a manufactured product under section 661.5, or traction power equipment under section 661.11(v). This was the outgrowth of a previous Buy America rulemaking (70 FR 71246) in which the Federal Transit Administration (FTA) discussed several proposals mandated by the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA–LU) (Pub L. 109–59),

proposing to make conforming amendments to its Buy America regulation (49 CFR part 661).

During the earlier open comment period, several commenter recommended that aluminum composite conducting rail, otherwise known as Bimetallic Power Transmission (BPTS) equipment, which is a combination of an aluminum conductor and a stainless steel abrasion-resistant cap, be added to the list of traction power equipment in 49 CFR 661.11(v) because of its power-delivery function as part of the traction power system. However, FTA's current regulation at 49 CFR 661.11(w) stated that ''[t]he power or third rail is not considered traction power equipment and is thus subject to the requirements of 49 U.S.C. 5323(j) and the requirements of 49 CFR 661.5.'' In other words, any rail used to provide power must be produced in the United States, which includes all manufacturing processes except for metallurgical processes involving refinement of steel additives.

According to commenters who supported the proposal, BPTS is a ''new power transmission product developed to address the needs of modern traction power systems'' that offers a higher conductivity (2.5 times greater) combined with a lighter weight (three times lighter) when compared with steel. They stated that BPTS is part of an ''integrated electrical transmission system or an integrated equipment configuration rather than a third rail'' and that FTA needed to update its regulations to reflect changes in new technology.

The November 2005 NPRM only asked whether enumerated items on an FTA-developed list should be added to the list of traction power equipment in section 661.11(v). The petitioners' recommendation, if adopted, not only would have amended section 661.11(v) to include an item not proposed in the initial NPRM but also would have required a modification to the regulatory classification of rail in section 661.5 of the existing rule. Adopting these changes which were not proposed in the NPRM would not have provided other parties, specifically, firms manufacturing other types of power-conducting rail, to comment on the treatment of BPTS. Therefore, in the interest of fairness, FTA declined to make such a change in the 2007 Final Rule and instead published the subsequent NPRM (73 FR 70950, Nov. 24, 2008).

II. Comments Received

FTA received three comments in response to the NPRM. One commenter, a vendor of power rail equipment, asked whether a supplier of bi-metallic rail had sought the change and asked FTA to divulge the identity of the requestor. FTA believes that the identity of a requestor was not germane to the proposed rule, which should be evaluated on its merits and not on the identity of any petitioner. Moreover, the identity of possible petitioners could have been readily ascertained by reviewing the docket comments submitted during the two previous Buy America rulemakings.

Another commenter noted that the list of manufactured products in the proposed Appendix A to section 661.3 did not accurately reflect the current treatment of ''systems'' as redefined in FTA's September 2007 Final Rule. The text of the revised Appendix A has been revised accordingly.

A public transportation trade association, writing on behalf of its 1,500 member organizations, commended FTA on its commitment to follow through on the comments filed during the previous rulemaking and raising the issue in a forum for proper consideration by the industry and public like. The association reiterated its support for the amendment as expressed in its earlier public comments to the docket, noting that virtually every product on the list of traction power equipment is a manufactured product and that FTA needed to differentiate between conventional steel conducting rail and bi-metallic conducting rail.

In light of the lack of any objections to the NPRM, and the strong and consistent support of the member-based trade association, FTA is amending its regulation as proposed in the NPRM.

After publication of the September 2007 Final Rule, FTA was informed of the need to make two technical corrections to Appendix A to § 661.7. First, the cross-reference in paragraph (a) to the list of items exempted under the Federal Buy American Act of 1933 needed to be updated to reflect the current regulatory citation. Accordingly, the citation is being changed from 48 CFR 25.108 to 48 CFR 25.104. Second, the standing public interest waiver for small purchases (60 FR 37930, July 24, 1995) was inadvertently deleted during the earlier rulemakings. While it was clear from the statute that Congress intended for FTA to rescind its public interest waiver for 15-passenger vans, there is nothing in the record that indicates any intent to rescind the small purchase exemption. Therefore, FTA is restoring the small purchase exemption as paragraph (c).

Regulatory Analyses and Notices

A. Statutory/Legal Authority

Executive Order 12866 and DOT Regulatory Policies and Procedures

This NPRM is a nonsignificant regulatory action under section 3(f) of Executive Order 12866 and, therefore, was not reviewed by the Office of Management and Budget. This NPRM is also nonsignificant under the Regulatory Policies and Procedures of the Department of Transportation (44 FR 11034, Feb. 26, 1979). This NPRM imposes no new compliance costs on the regulated industry.

B. Executive Order 13132

This NPRM has been analyzed in accordance with the principles and criteria contained in Executive Order 13132 (''Federalism''). This NPRM does not include any regulation that has substantial direct effects on the States, the relationship between the national government and the States, or the distribution of power and responsibilities among the various levels of government. Therefore, the consultation and funding requirements of Executive Order 13132 do not apply.

C. Executive Order 13175

This NPRM has been analyzed in accordance with the principles and criteria contained in Executive Order 13175 (''Consultation and Coordination with Indian Tribal Governments''). Because this NPRM does not have tribal implications and does not impose direct compliance costs, the funding and consultation requirements of Executive Order 13175 do not apply.

D. Regulatory Flexibility Act and Executive Order 13272

The Regulatory Flexibility Act (5 U.S.C. 601–611) requires each agency to analyze regulations and proposals to assess their impact on small businesses and other small entities to determine whether the rule or proposal will have a significant economic impact on a substantial number of small entities. This NPRM imposes no new costs. Therefore, FTA certifies that this proposal does not require further analysis under the Regulatory Flexibility Act. FTA requests public comment on whether the proposals contained in this NPRM have a significant economic impact on a substantial number of small entities.

E. Unfunded Mandates Reform Act of 1995

This NPRM does not propose unfunded mandates under the Unfunded Mandates Reform Act of

1995. If the proposals are adopted into a final rule, it will not result in costs of $100 million or more (adjusted annually for inflation), in the aggregate, to any of the following: State, local, or Native American tribal governments, or the private sector.

F. Paperwork Reduction Act

This NPRM proposes no new information collection requirements.

G. Regulation Identifier Number (RIN)

A regulation identifier number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN number contained in the heading of this document may be used to cross-reference this action with the Unified Agenda.

H. Environmental Assessment

The National Environmental Policy Act of 1969 (NEPA), as amended (42 U.S.C. 4321–4347), requires Federal agencies to consider the consequences of major Federal actions and prepare a detailed statement on actions significantly affecting the quality of the human environment. There are no significant environmental impacts associated with this NPRM.

I. Privacy Act

Anyone is able to search the electronic form for all comments received into any of our dockets by the name of the individual submitting the comments (or signing the comment, if submitted on behalf of an association, business, labor union, *etc.*). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78) or you may visit *http://DocketsInfo.dot.gov*.

List of Subjects in 49 CFR Part 661

Grant programs—transportation, Public transportation, Reporting and recordkeeping requirements.

■ Accordingly, for the reasons described in the preamble, 49 CFR part 661 of the Code of Federal Regulations is amended as follows:

PART 661—BUY AMERICA

■ 1. The authority citation for part 661 continues to read as follows:

Authority: 49 U.S.C. 5323(j) (formerly sec. 165, Pub. L. 97–424; as amended by sec.337, Pub. L. 100–17; sec.1048, Pub. L. 102–240; sec. 3020(b), Pub. L. 105–178; and sec. 3023(i) and (k), Pub. L. 109–59); 49 CFR 1.51.

■ 2. In § 661.3, revise Appendix A to § 661.3 to read as follows:

§ 661.3 Definitions.

* * * * *

Appendix A to § 661.3—End Products

The following is a list of representative end products that are subject to the requirements of Buy America. This list is representative, not exhaustive.

(1) *Rolling stock end products:* All individual items identified as rolling stock in § 661.3 (*e.g.,* buses, vans, cars, railcars, locomotives, trolley cars and buses, ferry boats, as well as vehicles used for support services); train control, communication, and traction power equipment that meets the definition of end product at § 661.3 (*e.g.,* a communication or traction power system, including manufactured bimetallic power rail).

(2) *Steel and iron end products:* Items made primarily of steel or iron such as structures, bridges, and track work, including running rail, contact rail, and turnouts.

(3) *Manufactured end products:* Infrastructure projects not made primarily of steel or iron, including structures (terminals, depots, garages, and bus shelters), ties and ballast; contact rail not made primarily of steel or iron; fare collection systems; computers; information systems; security systems; data processing systems; and mobile lifts, hoists, and elevators.

■ 3. In § 661.5, revise paragraph (c) to read as follows:

§ 661.5 General requirements.

* * * * *

(c) The steel and iron requirements apply to all construction materials made primarily of steel or iron and used in infrastructure projects such as transit or maintenance facilities, rail lines, and bridges. These items include, but are not limited to, structural steel or iron, steel or iron beams and columns, running rail and contact rail. These requirements do not apply to steel or iron used as components or subcomponents of other manufactured products or rolling stock, or to bimetallic power rail incorporating steel or iron components.

* * * * *

■ 4. In § 661.7, revise Appendix A to § 661.7 to read as follows:

§ 661.7 Waivers.

* * * * *

Appendix A to § 661.7—General Waivers

(a) All waivers published in 48 CFR 25.104 which establish excepted articles, materials, and supplies for the Buy American Act of 1933 (41 U.S.C. 10a–d), as the waivers may be amended from time to time, apply to this part under the provisions of § 661.7 (b) and (c).

(b) Under the provisions of § 661.7 (b) and (c) of this part, a general public interest waiver from the Buy America requirements applies to microprocessors, computers, microcomputers, or software, or other such devices, which are used solely for the purpose of processing or storing data. This general waiver does not extend to a product or device which merely contains a microprocessor or microcomputer and is not used solely for the purpose of processing or storing data.

(c) Under the provisions of § 661.7(b) of this part, a general public interest waiver from the Buy America requirements for ''small purchases'' (as defined in the ''common grant rule,'' at 49 CFR 18.36(d)) made by FTA grantees with capital, planning, or operating assistance.

■ 5. Amend § 661.11 by adding paragraph (v)(31) to read as follows:

§ 661.11 Rolling stock procurements.

(v) * * *

(31) Bimetallic power rail.

* * * * *

■ 6. Amend § 661.12 by removing the phrase ''section 165(b)(2) or (b)(4) of the Surface Transportation Assistance Act, as amended'' and add in its place the phrase ''49 U.S.C. 5323(j)(2)(C)''.

Issued in Washington, DC, this 18th day of June, 2009.

Matthew Welbes,

Executive Director.

[FR Doc. E9–14703 Filed 6–24–09; 8:45 am]

BILLING CODE 4910–57–P

Proposed Rules

Federal Register
Vol. 74, No. 121
Thursday, June 25, 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 HOMELAND SECURITY

Office of the Secretary

6 CFR Part 5

[Docket No. DHS–2008–0174]

Privacy Act of 1974: Implementation of Exemptions; United States Immigration and Customs Enforcement—011 Removable Alien Records System of Records

AGENCY: Privacy Office, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Department of Homeland Security (DHS) is giving concurrent notice of a revised and updated system of records pursuant to the Privacy Act of 1974 for the Immigration and Customs Enforcement (ICE)—011 Removable Alien Records system of records and this proposed rulemaking. In this proposed rulemaking, the Department proposes to exempt portions of the system of records from one or more provisions of the Privacy Act because of criminal, civil, and administrative enforcement requirements. The exemptions for the legacy system of records notices will continue to be applicable until the final rule for this SORN has been completed.

DATES: Comments must be received on or before July 27, 2009.

ADDRESSES: You may submit comments, identified by docket number DHS–2008–0174, by one of the following methods:

- *Federal e-Rulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* 703–483–2999.
- *Mail:* Mary Ellen Callahan, Chief Privacy Officer, Department of Homeland Security, Washington, DC 20528.

Instructions: All submissions received must include the agency name and docket number for this notice. All comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided.

Docket: For access to the docket to read background documents or comments received, go to *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: For general questions please contact: Lyn Rahilly, Privacy Officer, (202–732–3300), Immigration and Customs Enforcement, 500 12th Street, SW., Washington, DC 20024, e-mail: *ICEPrivacy@dhs.gov.* For privacy issues, please contact: Mary Ellen Callahan (703–235–0780), Chief Privacy Officer, Privacy Office, Department of Homeland Security, Washington, DC 20528.

SUPPLEMENTARY INFORMATION:

Background: Pursuant to the savings clause in the Homeland Security Act of 2002, Public Law 107–296, Section 1512, 116 Stat. 2310 (November 25, 2002), Department of Homeland Security/Immigration Customs Enforcement has relied on preexisting Privacy Act systems of records notices for the collection and maintenance of records pertaining to removable alien records.

In this notice of proposed rulemaking, DHS is now proposing to exempt DHS/ICE—011 Removable Alien Records System, in part, from certain provisions of the Privacy Act.

The Privacy Act embodies fair information principles in a statutory framework governing the means by which the United States Government collects, maintains, uses, and disseminates personally identifiable information. The Privacy Act applies to information that is maintained in a ''system of records.'' A ''system of records'' is a group of any records under the control of an agency from which information is retrieved by the name of the individual or by some identifying number, symbol, or other identifying particular assigned to the individual. Individuals may request their own records that are maintained in a system of records in the possession or under the control of DHS by complying with DHS Privacy Act regulations, 6 CFR part 5.

The Privacy Act requires each agency to publish in the **Federal Register** a description of the type and character of each system of records that the agency maintains, and the routine uses that are contained in each system in order to make agency recordkeeping practices transparent, to notify individuals regarding the uses to which personally identifiable information is put, and to assist individuals in finding such files within the agency.

The Privacy Act allows Government agencies to exempt certain records from the access and amendment provisions. If an agency claims an exemption, however, it must issue a Notice of Proposed Rulemaking to make clear to the public the reasons why a particular exemption is claimed.

DHS is claiming exemptions from certain requirements of the Privacy Act for DHS/ICE—011 Removable Alien Records System. Some information in DHS/ICE—011 Removable Alien Records System relates to official DHS national security, law enforcement, immigration, and intelligence activities. These exemptions are needed to protect information relating to DHS activities from disclosure to subjects or others related to these activities. Specifically, the exemptions are required to preclude subjects of these activities from frustrating these processes; to avoid disclosure of activity techniques; to protect the identities and physical safety of confidential informants and law enforcement personnel; to ensure DHS's ability to obtain information from third parties and other sources; to protect the privacy of third parties; and to safeguard classified information. Disclosure of information to the subject of the inquiry could also permit the subject to avoid detection or apprehension.

The exemptions proposed here are standard law enforcement and national security exemptions exercised by a large number of Federal law enforcement and intelligence agencies. In appropriate circumstances, where compliance would not appear to interfere with or adversely affect the law enforcement purposes of this system and the overall law enforcement process, the applicable exemptions may be waived on a case by case basis.

A notice of system of records for Removable Aliens is also published in this issue of the **Federal Register**.

List of Subjects in 6 CFR Part 5

Freedom of information; Privacy.

For the reasons stated in the preamble, DHS proposes to amend Chapter I of Title 6, Code of Federal Regulations, as follows:

PART 5—DISCLOSURE OF RECORDS AND INFORMATION

1. The authority citation for part 5 continues to read as follows:

Authority: Public Law 107–296, 116 Stat. 2135, 6 U.S.C. 101 *et seq.;* 5 U.S.C. 301. Subpart A also issued under 5 U.S.C. 552. Subpart B also issued under 5 U.S.C. 552a.

2. Add at the end of Appendix C to Part 5, Exemption of Record Systems under the Privacy Act, the following new paragraph ''14'':

Appendix C to Part 5—DHS Systems of Records Exempt From the Privacy Act

* * * * *

14. The DHS/ICE–011 Removable Alien Records System records consists of electronic and paper records and will be used by DHS and its components. DHS/ICE–011 Removable Alien Records System is a repository of information held by DHS in connection with its several and varied missions and functions, including, but not limited to: the enforcement of civil and criminal laws; investigations, inquiries, and proceedings there under; and national security and intelligence activities. DHS/ICE—011 Removable Alien Records System contains information that is collected by, on behalf of, in support of, or in cooperation with DHS and its components and may contain personally identifiable information collected by other Federal, State, local, tribal, foreign, or international government agencies. Pursuant to exemption 5 U.S.C. 552a(j)(2) of the Privacy Act, portions of this system are exempt from 5 U.S.C. 552a(c)(3) and (4), (d), (e)(1), (e)(2), (e)(3), (e)(4)(G), (e)(4)(H), (e)(5) and (e)(8), (f), and (g). Pursuant to 5 U.S.C. 552a(k)(2) of the Privacy Act, this system is exempt from the following provisions of the Privacy Act, subject to the limitations set forth in those subsections: 5 U.S.C. 552a (c)(3), (d), (e)(1), (e)(4)(G), (e)(4)(H), and (f). Exemptions from these particular subsections are justified, on a case-by-case basis to be determined at the time a request is made, for the following reasons:

(a) From subsection (c)(3) and (4) (Accounting for Disclosures) because release of the accounting of disclosures could alert the subject of an investigation of an actual or potential criminal, civil, or regulatory violation to the existence of the investigation, and reveal investigative interest on the part of DHS as well as the recipient agency. Disclosure of the accounting would therefore present a serious impediment to law enforcement efforts and/or efforts to preserve national security. Disclosure of the accounting would also permit the individual who is the subject of a record to impede the investigation, to tamper with witnesses or evidence, and to avoid detection or apprehension, which would undermine the entire investigative process.

(b) From subsection (d) (Access to Records) because access to the records contained in this system of records could inform the subject of an investigation of an actual or potential criminal, civil, or regulatory violation, to the existence of the investigation, and reveal investigative interest on the part of DHS or another agency. Access to the records could permit the individual who is the subject of a record to impede the investigation, to tamper with witnesses or evidence, and to avoid detection or apprehension. Amendment of the records could interfere with ongoing investigations and law enforcement activities and would impose an impossible administrative burden by requiring investigations to be continuously reinvestigated. In addition, permitting access and amendment to such information could disclose security-sensitive information that could be detrimental to homeland security.

(c) From subsection (e)(1) (Relevancy and Necessity of Information) because in the course of investigations into potential violations of Federal law, the accuracy of information obtained or introduced occasionally may be unclear or the information may not be strictly relevant or necessary to a specific investigation. In the interests of effective law enforcement, it is appropriate to retain all information that may aid in establishing patterns of unlawful activity.

(d) From subsection (e)(2) (Collection of Information from Individuals) because requiring that information be collected from the subject of an investigation would alert the subject to the nature or existence of an investigation, thereby interfering with the related investigation and law enforcement activities.

(e) From subsection (e)(3) (Notice to Subjects) because providing such detailed information would impede law enforcement in that it could compromise investigations by: Revealing the existence of an otherwise confidential investigation and thereby provide an opportunity for the subject of an investigation to conceal evidence, alter patterns of behavior, or take other actions that could thwart investigative efforts; reveal the identity of witnesses in investigations, thereby providing an opportunity for the subjects of the investigations or others to harass, intimidate, or otherwise interfere with the collection of evidence or other information from such witnesses; or reveal the identity of confidential informants, which would negatively affect the informant's usefulness in any ongoing or future investigations and discourage members of the public from cooperating as confidential informants in any future investigations.

(f) From subsections (e)(4)(G) and (H) (Agency Requirements), and (f) (Agency Rules) because portions of this system are exempt from the individual access provisions of subsection (d) for the reasons noted above, and therefore DHS is not required to establish requirements, rules, or procedures with respect to such access. Providing notice to individuals with respect to existence of records pertaining to them in the system of records or otherwise setting up procedures pursuant to which individuals may access and view records pertaining to themselves in the system would undermine investigative efforts and reveal the identities of witnesses, and potential witnesses, and confidential informants.

(g) From subsection (e)(5) (Collection of Information) because in the collection of information for law enforcement purposes it is impossible to determine in advance what information is accurate, relevant, timely, and complete. Compliance with (e)(5) would preclude DHS agents from using their investigative training and exercise of good judgment to both conduct and report on investigations.

(h) From subsection (e)(8) (Notice on Individuals) because compliance would interfere with DHS' ability to obtain, serve, and issue subpoenas, warrants, and other law enforcement mechanisms that may be filed under seal, and could result in disclosure of investigative techniques, procedures, and evidence.

(i) From subsection (g) to the extent that the system is exempt from other specific subsections of the Privacy Act relating to individuals' rights to access and amend their records contained in the system. Therefore DHS is not required to establish rules or procedures pursuant to which individuals may seek a civil remedy for the agency's: refusal to amend a record; refusal to comply with a request for access to records; failure to maintain accurate, relevant timely and complete records; or failure to otherwise comply with an individual's right to access or amend records.

Dated: June 18, 2009.

Mary Ellen Callahan,

Chief Privacy Officer, Department of Homeland Security.

[FR Doc. E9–14901 Filed 6–24–09; 8:45 am]

BILLING CODE 9111–28–P

DEPARTMENT OF HOMELAND SECURITY

Office of the Secretary

6 CFR Part 5

[Docket No. DHS–2009–0021]

Privacy Act of 1974: Implementation of Exemptions; United States Coast Guard—013 Marine Information for Safety and Law Enforcement (MISLE)

AGENCY: Privacy Office, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Department of Homeland Security (DHS) is giving concurrent notice of a revised and updated system of records pursuant to the Privacy Act of 1974 for the United States Coast Guard Marine Information for Safety and Law Enforcement system of records and this proposed rulemaking. In this proposed rulemaking, the Department proposes to exempt portions of the system of records from one or more provisions of the Privacy Act because of criminal, civil, and administrative enforcement requirements.

DATES: Comments must be received on or before July 27, 2009.

ADDRESSES: You may submit comments, identified by docket number DHS–2009–0021, by one of the following methods:

- *Federal e-Rulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* 703–483–2999.
- *Mail:* Mary Ellen Callahan, Chief Privacy Officer, Department of Homeland Security, Washington, DC 20528.

Instructions: All submissions received must include the agency name and docket number for this notice. All comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided.

Docket: For access to the docket to read background documents or comments received, go to *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: For general questions and privacy issues, please contact: Mary Ellen Callahan (703–235–0780), Chief Privacy Officer, Privacy Office, Department of Homeland Security, Washington, DC 20528.

SUPPLEMENTARY INFORMATION:

Background: Pursuant to the savings clause in the Homeland Security Act of 2002, Public Law 107–296, Section 1512, 116 Stat. 2310 (November 25, 2002), the Department of Homeland Security (DHS) and United States Coast Guard (USCG) have relied on preexisting Privacy Act systems of records notices for the collection and maintenance of records that concern DHS/USCG marine, safety and law enforcement information system records.

As part of its efforts to streamline and consolidate its Privacy Act record systems, DHS/USCG is updating and reissuing a DHS/USCG system of records under the Privacy Act (5 U.S.C. 552a) for DHS/USCG marine, safety and law enforcement information system records. This will ensure that all organizational parts of USCG follow the same privacy rules for collecting and handling marine, safety and law enforcement information system records.

In this notice of proposed rulemaking, DHS is now proposing to exempt Marine Information for Safety and Law Enforcement System, in part, from certain provisions of the Privacy Act.

The Privacy Act embodies fair information principles in a statutory framework governing the means by which the United States Government collects, maintains, uses, and disseminates personally identifiable information. The Privacy Act applies to information that is maintained in a ''system of records.'' A ''system of records'' is a group of any records under the control of an agency from which information is retrieved by the name of the individual or by some identifying number, symbol, or other identifying particular assigned to the individual. Individuals may request their own records that are maintained in a system of records in the possession or under the control of DHS by complying with DHS Privacy Act regulations, 6 CFR part 5.

The Privacy Act requires each agency to publish in the **Federal Register** a description of the type and character of each system of records that the agency maintains, and the routine uses that are contained in each system in order to make agency record keeping practices transparent, to notify individuals regarding the uses to which personally identifiable information is put, and to assist individuals in finding such files within the agency.

The Privacy Act allows government agencies to exempt certain records from the access and amendment provisions. If an agency claims an exemption, however, it must issue a Notice of Proposed Rulemaking to make clear to the public the reasons why a particular exemption is claimed.

DHS is claiming exemptions from certain requirements of the Privacy Act for the Marine Information for Safety and Law Enforcement System. Some information in Marine Information for Safety and Law Enforcement System relates to official DHS national security, law enforcement, immigration, intelligence activities. These exemptions are needed to protect information relating to DHS activities from disclosure to subjects or others related to these activities. Specifically, the exemptions are required to preclude subjects of these activities from frustrating these processes; to avoid disclosure of activity techniques; to protect the identities and physical safety of confidential informants and law enforcement personnel; to ensure DHS's ability to obtain information from third parties and other sources; and to protect the privacy of third parties. Disclosure of information to the subject of the inquiry could also permit the subject to avoid detection or apprehension.

The exemptions proposed here are standard law enforcement exemptions exercised by a large number of Federal law enforcement agencies. In appropriate circumstances, where compliance would not appear to interfere with or adversely affect the law enforcement purposes of this system and the overall law enforcement process, the applicable exemptions may be waived on a case by case basis.

A notice of system of records for Marine Information for Safety and Law Enforcement System is also published in this issue of the **Federal Register**.

List of Subjects in 6 CFR Part 5

Freedom of information; Privacy.

For the reasons stated in the preamble, DHS proposes to amend Chapter I of Title 6, Code of Federal Regulations, as follows:

PART 5—DISCLOSURE OF RECORDS AND INFORMATION

1. The authority citation for part 5 continues to read as follows:

Authority: Public Law 107–296, 116 Stat. 2135, 6 U.S.C. 101 *et seq.*; 5 U.S.C. 301. Subpart A also issued under 5 U.S.C. 552. Subpart B also issued under 5 U.S.C. 552a.

2. Add at the end of Appendix C to Part 5, Exemption of Record Systems under the Privacy Act, the following new paragraph ''14'':

Appendix C to Part 5—DHS Systems of Records Exempt From the Privacy Act

* * * * *

14. The Department of Homeland Security/United States Coast Guard Marine Information for Safety and Law Enforcement system of records consists of electronic and paper records and will be used by DHS and its components. Marine Information for Safety and Law Enforcement System is a repository of information held by DHS in connection with its several and varied missions and functions, including, but not limited to: the enforcement of civil and criminal laws; investigations, inquiries, and proceedings thereunder; national security and intelligence activities. Marine Information for Safety and Law Enforcement System contains information that is collected by, on behalf of, in support of, or in cooperation with DHS and its components and may contain personally identifiable information collected by other Federal, State, local, tribal, foreign, or international government agencies. Pursuant to exemption 5 U.S.C. 552a(j)(2) of the Privacy Act, portions of this system are exempt from 5 U.S.C. 552a(c)(3) and (4); (d); (e)(1), (e)(2), (e)(3), (e)(4)(G), (e)(4)(H), (e)(4)(I), (e)(5) and (e)(8); (f), and (g). Pursuant to 5 U.S.C. 552a(k)(2) of the Privacy Act, this system is exempt from the following provisions of the Privacy Act, subject to the limitations set forth in those subsections: 5 U.S.C. 552a (c)(3), (d), (e)(1), (e)(4)(G), (e)(4)(H), (I), and (f). Exemptions from these particular subsections are justified, on a case-by-case basis to be determined at the time a request is made, for the following reasons:

(a) From subsection (c)(3) and (4) (Accounting for Disclosures) because release of the accounting of disclosures could alert the subject of an investigation of an actual or potential criminal, civil, or regulatory

violation to the existence of the investigation, and reveal investigative interest on the part of DHS as well as the recipient agency. Disclosure of the accounting would therefore present a serious impediment to law enforcement efforts and/or efforts to preserve national security. Disclosure of the accounting would also permit the individual who is the subject of a record to impede the investigation, to tamper with witnesses or evidence, and to avoid detection or apprehension, which would undermine the entire investigative process.

(b) From subsection (d) (Access to Records) because access to the records contained in this system of records could inform the subject of an investigation of an actual or potential criminal, civil, or regulatory violation, to the existence of the investigation, and reveal investigative interest on the part of DHS or another agency. Access to the records could permit the individual who is the subject of a record to impede the investigation, to tamper with witnesses or evidence, and to avoid detection or apprehension. Amendment of the records could interfere with ongoing investigations and law enforcement activities and would impose an impossible administrative burden by requiring investigations to be continuously reinvestigated. In addition, permitting access and amendment to such information could disclose security-sensitive information that could be detrimental to homeland security.

(c) From subsection (e)(1) (Relevancy and Necessity of Information) because in the course of investigations into potential violations of Federal law, the accuracy of information obtained or introduced occasionally may be unclear or the information may not be strictly relevant or necessary to a specific investigation. In the interests of effective law enforcement, it is appropriate to retain all information that may aid in establishing patterns of unlawful activity.

(d) From subsection (e)(2) (Collection of Information from Individuals) because requiring that information be collected from the subject of an investigation would alert the subject to the nature or existence of an investigation, thereby interfering with the related investigation and law enforcement activities.

(e) From subsection (e)(3) (Notice to Subjects) because providing such detailed information would impede law enforcement in that it could compromise investigations by: revealing the existence of an otherwise confidential investigation and thereby provide an opportunity for the subject of an investigation to conceal evidence, alter patterns of behavior, or take other actions that could thwart investigative efforts; reveal the identity of witnesses in investigations, thereby providing an opportunity for the subjects of the investigations or others to harass, intimidate, or otherwise interfere with the collection of evidence or other information from such witnesses; or reveal the identity of confidential informants, which would negatively affect the informant's usefulness in any ongoing or future investigations and discourage members of the public from cooperating as confidential informants in any future investigations.

(f) From subsections (e)(4)(G), (H), and (I) (Agency Requirements), and (f) (Agency Rules) because portions of this system are exempt from the individual access provisions of subsection (d) for the reasons noted above, and therefore DHS is not required to establish requirements, rules, or procedures with respect to such access. Providing notice to individuals with respect to existence of records pertaining to them in the system of records or otherwise setting up procedures pursuant to which individuals may access and view records pertaining to themselves in the system would undermine investigative efforts and reveal the identities of witnesses, and potential witnesses, and confidential informants.

(g) From subsection (e)(5) (Collection of Information) because in the collection of information for law enforcement purposes it is impossible to determine in advance what information is accurate, relevant, timely, and complete. Compliance with (e)(5) would preclude DHS agents from using their investigative training and exercise of good judgment to both conduct and report on investigations.

(h) From subsection (e)(8) (Notice on Individuals) because compliance would interfere with DHS' ability to obtain, serve, and issue subpoenas, warrants, and other law enforcement mechanisms that may be filed under seal, and could result in disclosure of investigative techniques, procedures, and evidence.

(i) From subsection (g) to the extent that the system is exempt from other specific subsections of the Privacy Act relating to individuals' rights to access and amend their records contained in the system. Therefore DHS is not required to establish rules or procedures pursuant to which individuals may seek a civil remedy for the agency's: refusal to amend a record; refusal to comply with a request for access to records; failure to maintain accurate, relevant timely and complete records; or failure to otherwise comply with an individual's right to access or amend records.

Dated: June 18, 2009.

Mary Ellen Callahan,

Chief Privacy Officer, Department of Homeland Security.

[FR Doc. E9–14908 Filed 6–24–09; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Office of the Secretary

6 CFR Part 5

[Docket No. DHS–2009–0014]

Privacy Act of 1974: Implementation of Exemptions; United States Coast Guard 030 Merchant Seamen's Records

AGENCY: Privacy Office, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Department of Homeland Security (DHS) is giving concurrent notice of a revised and updated system of records pursuant to the Privacy Act of 1974 for the Department of Homeland Security to administer the DHS/USCG–028 United States Merchant Seamen's Records system of records and this proposed rulemaking. In this proposed rulemaking, the Department proposes to exempt portions of the system of records from one or more provisions of the Privacy Act because of criminal, civil, and administrative enforcement requirements. The exemptions for the legacy system of records notices will continue to be applicable until the final rule for this SORN has been completed.

DATES: Comments must be received on or before July 27, 2009.

ADDRESSES: You may submit comments, identified by docket number DHS–2009–0014, by one of the following methods:

- *Federal e-Rulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* 703–483–2999.
- *Mail:* Mary Ellen Callahan, Chief Privacy Officer, Department of Homeland Security, Washington, DC 20528.

Instructions: All submissions received must include the agency name and docket number for this notice. All comments received will be posted without change to *http://www.regulations.gov*, including any personal information provided.

Docket: For access to the docket to read background documents or comments received, go to *http://www.regulations.gov*.

FOR FURTHER INFORMATION CONTACT: For general questions and privacy issues, please contact: Mary Ellen Callahan (703–235–0780), Chief Privacy Officer, Privacy Office, U.S. Department of Homeland Security, Washington, DC 20528.

SUPPLEMENTARY INFORMATION:

Background: Pursuant to the savings clause in the Homeland Security Act of 2002, the Department of Homeland Security (DHS) United States Coast Guard (USCG) have relied on preexisting Privacy Act systems of records notices for the collection and maintenance of records that concern the Department of Homeland Security to administer the DHS/USCG–028 United States Coast Guard Family Advocacy Program.

As part of its efforts to streamline and consolidate its record systems, DHS is updating and reissuing a DHS/USCG

system of records under the Privacy Act (5 U.S.C. 552a) that deals with DHS/USCG–030 United States Merchant Seamen's Records. The collection and maintenance of this information will assist DHS/USCG in meeting its obligation to administer the DHS/USCG–030 United States Merchant Seamen's Records.

The Privacy Act embodies fair information principles in a statutory framework governing the means by which the United States Government collects, maintains, uses, and disseminates personally identifiable information. The Privacy Act applies to information that is maintained in a ''system of records.'' A ''system of records'' is a group of any records under the control of an agency from which information is retrieved by the name of the individual or by some identifying number, symbol, or other identifying particular assigned to the individual. Individuals may request their own records that are maintained in a system of records in the possession or under the control of DHS by complying with DHS Privacy Act regulations, 6 CFR part 5.

The Privacy Act requires each agency to publish in the **Federal Register** a description of the type and character of each system of records that the agency maintains, and the routine uses that are contained in each system in order to make agency recordkeeping practices transparent, to notify individuals regarding the uses to which personally identifiable information is put, and to assist individuals in finding such files within the agency.

The Privacy Act allows Government agencies to exempt certain records from the access and amendment provisions. If an agency claims an exemption, however, it must issue a Notice of Proposed Rulemaking to make clear to the public the reasons why a particular exemption is claimed.

DHS is claiming exemptions from certain requirements of the Privacy Act for DHS/USCG–030 United States Merchant Seamen's Records. Some information in DHS/USCG–030 United States Merchant Seamen's Records relates to law enforcement. These exemptions are needed to protect information relating to DHS activities from disclosure to subjects or others related to these activities. Specifically, the exemptions are required to preclude subjects of these activities from frustrating these processes; to avoid disclosure of activity techniques; to protect the identities and physical safety of confidential informants and law enforcement personnel; to ensure DHS's ability to obtain information from third parties and other sources; and to protect the privacy of third parties. Disclosure of information to the subject of the inquiry could also permit the subject to avoid detection or apprehension.

The exemptions proposed here are standard law enforcement and national security exemptions exercised by a large number of Federal law enforcement and intelligence agencies. In appropriate circumstances, where compliance would not appear to interfere with or adversely affect the law enforcement purposes of this system and the overall law enforcement process, the applicable exemptions may be waived on a case by case basis.

A notice of system of records for DHS/USCG–030 United States Merchant Seamen's Records is also published in this issue of the **Federal Register**.

List of Subjects in 6 CFR Part 5

Freedom of information; Privacy.

For the reasons stated in the preamble, DHS proposes to amend Chapter I of Title 6, Code of Federal Regulations, as follows:

PART 5—DISCLOSURE OF RECORDS AND INFORMATION

1. The authority citation for part 5 continues to read as follows:

Authority: 6 U.S.C. 101 *et seq.*; Public Law 107–306, 116 Stat. 2135; 5 U.S.C. 301. Subpart A also issued under 5 U.S.C. 552. Subpart B also issued under 5 U.S.C. 552a.

2. Add at the end of Appendix C to Part 5, the following new paragraph ''14'':

Appendix C to Part 5—DHS Systems of Records Exempt From the Privacy Act

* * * * *

14. The Department of Homeland Security/United States Coast Guard—030 Merchant Seaman Records system of records consists of electronic and paper records and will be used by DHS and its components. DHS/USCG–030 Merchant Seaman Records is a repository of information held by DHS in connection with its several and varied missions and functions, including, but not limited to: The enforcement of civil and criminal laws; investigations, inquiries, and proceedings there under. DHS/USCG–030 Merchant Seaman Records contains information that is collected by, on behalf of, in support of, or in cooperation with DHS and its components and may contain personally identifiable information collected by other Federal, State, local, tribal, foreign, or international government agencies. Pursuant to 5 U.S.C. 552a(k)(2) this system is exempt from the following provisions of the Privacy Act, subject to the limitations set forth in those subsections: 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (e)(4)(H), (e)(4)(I), and (f). Exemptions from these particular subsections are justified, on a case-by-case basis to be determined at the time a request is made, for the following reasons:

(a) From subsection (c)(3) (Accounting for Disclosures) because release of the accounting of disclosures could alert the subject of an investigation of an actual or potential criminal, civil, or regulatory violation to the existence of the investigation, and reveal investigative interest on the part of DHS as well as the recipient agency. Disclosure of the accounting would therefore present a serious impediment to law enforcement efforts and/or efforts to preserve national security. Disclosure of the accounting would also permit the individual who is the subject of a record to impede the investigation, to tamper with witnesses or evidence, and to avoid detection or apprehension, which would undermine the entire investigative process.

(b) From subsection (d) (Access to Records) because access to the records contained in this system of records could inform the subject of an investigation of an actual or potential criminal, civil, or regulatory violation, to the existence of the investigation, and reveal investigative interest on the part of DHS or another agency. Access to the records could permit the individual who is the subject of a record to impede the investigation, to tamper with witnesses or evidence, and to avoid detection or apprehension. Amendment of the records could interfere with ongoing investigations and law enforcement activities and would impose an impossible administrative burden by requiring investigations to be continuously reinvestigated. In addition, permitting access and amendment to such information could disclose security-sensitive information that could be detrimental to homeland security.

(c) From subsection (e)(1) (Relevancy and Necessity of Information) because in the course of investigations into potential violations of Federal law, the accuracy of information obtained or introduced occasionally may be unclear or the information may not be strictly relevant or necessary to a specific investigation. In the interests of effective law enforcement, it is appropriate to retain all information that may aid in establishing patterns of unlawful activity.

(d) From subsections (e)(4)(G), (e)(4)(H), and (e)(4)(I) (Agency Requirements), and (f) (Agency Rules) because portions of this system are exempt from the individual access provisions of subsection (d) for the reasons noted above, and therefore DHS is not required to establish requirements, rules, or procedures with respect to such access. Providing notice to individuals with respect to existence of records pertaining to them in the system of records or otherwise setting up procedures pursuant to which individuals may access and view records pertaining to themselves in the system would undermine investigative efforts and reveal the identities of witnesses, and potential witnesses, and confidential informants.

Dated: June 18, 2009.

Mary Ellen Callahan,

Chief Privacy Officer, Department of Homeland Security.

[FR Doc. E9–14913 Filed 6–24–09; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2009–0571; Directorate Identifier 2009–NM–004–AD]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 777 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 all Boeing Model 777 series airplanes. This proposed AD would require inspections for scribe lines in the skin along lap joints, butt joints, certain external doublers, and the large cargo door hinges; and related investigative and corrective actions if necessary. This proposed AD results from reports of scribe lines found at lap joints and butt joints, around external doublers, and at locations where external decals had been cut. We are proposing this AD to detect and correct scribe lines, which can develop into fatigue cracks in the skin. Undetected fatigue cracks can grow and cause sudden decompression of the airplane.

DATES: We must receive comments on this proposed AD by August 10, 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: Berhane Alazar, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 917–6577; 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–2009–0571; Directorate Identifier 2009–NM–004–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 received a report indicating that scribe lines have been found by one operator on one Model 777 airplane. On this airplane, scribe lines were found around the edges of the area where a large decal had been installed. The operator believed that the scribe lines were made when the decal was removed. No cracks were found at the scribe line locations. On other airplane models, scribe lines appear to have been made when sealant was removed as part of preparation of the airplane for repainting, and in some cases resulted in significant cracking. Although no such cracking has been found on Model 777 airplanes, fatigue cracks can develop in the skin at scribe line locations and have been found on some airplane models. Such fatigue cracks, if not corrected, could grow large and cause sudden decompression of the airplane.

Related ADs

This proposed AD is similar to two existing ADs. AD 2006–07–12, amendment 39–14539 (71 FR 16211, March 31, 2006), applies to Boeing Model 737–100, –200, –200C, –300, –400, and –500 series airplanes. AD 2007–19–07, amendment 39–15198 (72 FR 60244, October 24, 2007), applies to all Boeing Model 757–200, –200PF, and –200CB series airplanes. Those ADs require inspections to detect scribe lines in the fuselage skin at certain lap joints, butt joints, external repair doublers, and other areas; and related investigative/corrective actions if necessary. Those actions resulted from reports of fuselage skin cracks adjacent to the skin lap joints on airplanes that had scribe lines.

Relevant Service Information

We have reviewed Boeing Alert Service Bulletin 777–53A0054, dated August 7, 2008. The service bulletin describes procedures for exploratory detailed inspections to detect scribe lines in affected lap joint and butt joint locations, external repair doubler locations, and large cargo door hinges. The service bulletin specifies removing paint and sealant from affected areas before the initial exploratory inspection. The compliance time for the exploratory inspections is 15,000, 32,000, or 45,000 total flight cycles (depending on the inspection location).

The service bulletin specifies related investigative and corrective actions. The related investigative actions include performing repetitive detailed, high frequency eddy current, or ultrasonic inspections of the scribe lines to detect cracks, and the corrective actions include repairing scribe lines and cracks. The service bulletin specifies to repair cracks before further flight.

The service bulletin specifies repairing scribe lines before further flight, except when a limited return to service (LRTS) program for qualifying scribe lines would allow return to service for a limited period before scribe lines are repaired. The LRTS program includes repetitive inspections to detect cracks where scribe lines are found. To qualify for an LRTS program, scribe lines must meet certain criteria based on their depth and location. The service bulletin specifies final repair by using the structural repair manual or

contacting Boeing for instructions, which would eliminate the need for the repetitive inspections of the LRTS program. The repetitive intervals for the LRTS program range from 1,200 to 5,000 flight cycles, depending on the depth and location of the scribe lines and the configuration of the airplane.

The service bulletin notes that certain inspections would not be required under the following conditions:

- The airplane had never been stripped or repainted.
- The area under the wing-to-body fairings had never been stripped or repainted.
- For each repair, the airplane had never been stripped or repainted since the repair was installed.
- No sealant had been removed except in accordance with the specified sealant removal processes as given in Appendix A of the service bulletin.
- No fillet seal exists at a certain lap joint or was previously removed from that lap joint.

The service bulletin specifies submitting inspection results to Boeing. The service bulletin also provides procedures for addressing scribe lines detected before the initial inspection threshold.

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 same type design. 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 Service Bulletin.'' This proposed AD would also require sending the results of the exploratory inspections to Boeing.

Differences Between the Proposed AD and Service Bulletin

Where the note below Table 6 in paragraph 1.E., ''Compliance,'' of Boeing Alert Service Bulletin 777–53A0054, dated August 7, 2008, specifies to ''contact Boeing for inspection requirements for operation beyond 60,000 total flight-cycles after first repaint,'' this AD proposes to require contacting the FAA for inspection requirements for those airplanes.

Where the service bulletin specifies contacting the manufacturer for instructions on how to repair certain conditions, this proposed AD would require repairing those conditions in one of the following ways:

- Using a method that we approve; or
- Using data that meet the certification basis of the airplane, and that have been approved by an Authorized Representative for the Boeing Commercial Airplanes Delegation Option Authorization Organization whom we have authorized to make those findings.

Costs of Compliance

We estimate that this proposed AD would affect 129 airplanes of U.S. registry. The following table provides the estimated costs for U.S. operators to comply with this proposed AD. A work-hour estimate is not available for the inspection for an external repair doubler since the inspection required can be different depending on the in-service repair history of the airplane. This inspection affects up to 129 U.S.-registered airplanes.

TABLE—ESTIMATED COSTS

Action	Work hours	Average labor rate per hour	Parts	Cost per product	Number of U.S.-registered airplanes	Fleet cost
Exploratory Inspection	9 to 34	$80	None	$720 to $2,720	129	$92,880 to $350,880.

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–2009–0571; Directorate Identifier 2009–NM–004–AD.

Comments Due Date

(a) We must receive comments by August 10, 2009.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Boeing Model 777 series airplanes, certificated in any category, as identified in Boeing Alert Service Bulletin 777–53A0054, dated August 7, 2008.

Subject

(d) Air Transport Association (ATA) of America Code 53: Fuselage.

Unsafe Condition

(e) This AD results from reports of scribe lines found at lap joints and butt joints, around external doublers, and at locations where external decals had been cut. We are issuing this AD to detect and correct scribe lines, which can develop into fatigue cracks in the skin. Undetected fatigue cracks can grow and cause sudden decompression of the airplane.

Compliance

(f) You are responsible for having the actions required by this AD performed within the compliance times specified, unless the actions have already been done.

Inspection

(g) At the applicable times specified in paragraph 1.E., ''Compliance,'' of Boeing Alert Service Bulletin 777–53A0054, dated August 7, 2008, except as provided in paragraphs (h) and (j) of this AD, do detailed exploratory inspections for scribe lines in the skin along lap joints, butt joints, certain external doublers, and the large cargo door hinges. Do all applicable related investigative and corrective actions at the times specified in the service bulletin, by accomplishing all actions specified in the Accomplishment Instructions of the service bulletin, except as provided by paragraph (i) of this AD.

Note 1: The inspection exemptions described in NOTES 1.–5. in paragraph 1.E. of Boeing Alert Service Bulletin 777–53A0054, dated August 7, 2008, apply to this AD.

Exceptions to Service Bulletin Specifications

(h) Where Boeing Alert Service Bulletin 777–53A0054, dated August 7, 2008, specifies a compliance time after the date on the service bulletin, this AD requires compliance within the specified compliance time after the effective date of this AD.

(i) Where Boeing Alert Service Bulletin 777–53A0054, dated August 7, 2008, specifies to contact Boeing for appropriate action, accomplish applicable actions using a method approved in accordance with the procedures specified in paragraph (l) of this AD.

(j) Where paragraph 1.E. of Boeing Alert Service Bulletin 777–53A0054, dated August 7, 2008, specifies to ''contact Boeing for inspection requirements for operation beyond 60,000 total flight-cycles after first repaint,'' for those airplanes, this AD requires contacting the Manager, Seattle Aircraft Certification Office (ACO), for all inspection requirements of this AD.

Report

(k) At the applicable time specified in paragraph (k)(1) or (k)(2) of this AD: Submit a report of the findings (both positive and negative) of the inspections required by paragraph (g) of this AD. You may use Appendix B of Boeing Alert Service Bulletin 777–53A0054, dated August 7, 2008. Send the report to Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124–2207. The report must contain, at a minimum, the inspection results, a description of any discrepancies found, the airplane serial number, and the number of flight cycles and flight hours on the airplane. Under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), the Office of Management and Budget (OMB) has approved the information collection requirements contained in this AD and has assigned OMB Control Number 2120–0056.

(1) If the inspection was done on or after the effective date of this AD: Submit the report within 30 days after the inspection.

(2) If the inspection was done before the effective date of this AD: Submit the report within 30 days after the effective date of this AD.

Alternative Methods of Compliance (AMOCs)

(l)(1) The Manager, Seattle 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: Berhane Alazar, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 917–6577; fax (425) 917–6590. Or, e-mail information to *9-ANM-Seattle-ACO-AMOC-Requests@faa.gov*.

(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.

(3) An AMOC that provides an acceptable level of safety may be used for any repair required by this AD, if it is approved by an Authorized Representative for the Boeing Commercial Airplanes Delegation Option Authorization Organization who has been authorized by the Manager, Seattle ACO, to make those findings. For a repair method to be approved, the repair must meet the certification basis of the airplane and the approval must specifically refer to this AD.

Issued in Renton, Washington, on June 17, 2009.

Dorr M. Anderson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E9–14991 Filed 6–24–09; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2009–0574; Directorate Identifier 2009–CE–028–AD]

RIN 2120–AA64

Airworthiness Directives; DORNIER LUFTFAHRT GmbH Models 228–100, 228–101, 228–200, 228–201, and 228–202 Airplanes

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

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for the products listed above. This proposed AD results from mandatory continuing airworthiness information (MCAI) originated by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as:

A stub axle failure of the main landing gear on a Dornier 228–200 aeroplane was reported to RUAG Aerospace. Investigations revealed that the fracture of the axle—manufacturer Part Number (P/N) A–511000B28B was due to fatigue. Already in the year 1993 two failures of P/N A–511000B28B axles occurred. Those events led in 1994 the Luftfahrt-Bundesamt—Germany's National Aviation Authority—to publish Airworthiness Directive (AD) D–1994–042 to mandate the replacement of A–511000B28B axles by improved-design axle with P/N A–511000C28B (Dornier Luftfahrt GmbH Service bulletin 228–214).

It is believed that a misinterpretation of the Dornier 228 repair/maintenance documentation caused inadvertent installation of A–511000B28B axle on the accident aeroplane's main landing gear with P/N A–511000C00F. This configuration was not approved for installation and was therefore not addressed by LBA AD D–1994–042 or Dornier SB–228–214.

The actions specified in this Airworthiness Directive are intended to prevent main landing gear failure, which could result in loss of control of the aeroplane during landing operations.

The proposed AD would require actions that are intended to address the unsafe condition described in the MCAI.

DATES: We must receive comments on this proposed AD by July 27, 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 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: Greg Davison, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; *telephone:* (816) 329–4130; *fax:* (816) 329–4090.

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–2009–0574; Directorate Identifier 2009–CE–028–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 European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Community, has issued EASA AD No.: 2009–0062, dated March 13, 2009 (referred to after this as ''the MCAI''), to correct an unsafe condition for the specified products. The MCAI states:

A stub axle failure of the main landing gear on a Dornier 228–200 aeroplane was reported to RUAG Aerospace. Investigations revealed that the fracture of the axle—manufacturer Part Number (P/N) A–511000B28B was due to fatigue. Already in the year 1993 two failures of P/N A–511000B28B axles occurred. Those events led in 1994 the Luftfahrt-Bundesamt—Germany's National Aviation Authority—to publish Airworthiness Directive (AD) D–1994–042 to mandate the replacement of A–511000B28B axles by improved-design axle with P/N A–511000C28B (Dornier Luftfahrt GmbH Service bulletin 228–214).

It is believed that a misinterpretation of the Dornier 228 repair/maintenance documentation caused inadvertent installation of A–511000B28B axle on the accident aeroplane's main landing gear with P/N A–511000C00F. This configuration was not approved for installation and was therefore not addressed by LBA AD D–1994–042 or Dornier SB–228–214.

The actions specified in this Airworthiness Directive are intended to prevent main landing gear failure, which could result in loss of control of the aeroplane during landing operations.

The MCAI requires inspection of the main landing gear (MLG) and, if applicable, replacement of the MLG stub axle. You may obtain further information by examining the MCAI in the AD docket.

Relevant Service Information

RUAG Aerospace Defence Technology has issued Dornier 228 Service Bulletin SB–228–276, dated October 16, 2008. The actions described in this service information are intended to correct the unsafe condition identified in the MCAI.

FAA's Determination and Requirements of the Proposed 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 this State of Design Authority, they have notified us of the unsafe condition described in the MCAI and service information referenced above. We are proposing this AD because we evaluated all information and determined the unsafe condition exists and is likely to exist or develop on other products of the same type design.

Differences Between This Proposed AD and the MCAI or Service Information

We have reviewed the MCAI and related service information and, in general, agree with their substance. But we might have found it necessary to use different words from those in the MCAI to ensure the AD is clear for U.S. operators and is enforceable. In making these changes, we do not intend to differ substantively from the information provided in the MCAI and related service information.

We might also have proposed different actions in this AD from those in the MCAI in order to follow FAA policies. Any such differences are highlighted in a **Note** within the proposed AD.

Costs of Compliance

We estimate that this proposed AD will affect 15 products of U.S. registry. We also estimate that it would take about 1 work-hour per product to comply with the basic requirements of this proposed AD. The average labor rate is $80 per work-hour.

Based on these figures, we estimate the cost of the proposed AD on U.S. operators to be $1,200 or $80 per product.

In addition, we estimate that any necessary follow-on actions would take about 16 work-hours and require parts costing $23,734, for a cost of $25,014 per product. We have no way of determining the number of products that may need these actions.

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.

We prepared a regulatory evaluation of the estimated costs to comply with this proposed AD and placed it 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:

Dornier Luftfahrt GmbH: Docket No. FAA–2009–0574; Directorate Identifier 2009–CE–028–AD.

Comments Due Date

(a) We must receive comments by July 27, 2009.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Models Dornier 228–100, Dornier 228–101, Dornier 228–200, Dornier 228–201, and Dornier 228–202 airplanes, all serial numbers, certificated in any category.

Subject

(d) Air Transport Association of America (ATA) Code 32: Landing Gear.

Reason

(e) The mandatory continuing airworthiness information (MCAI) states:

A stub axle failure of the main landing gear on a Dornier 228–200 aeroplane was reported to RUAG Aerospace. Investigations revealed that the fracture of the axle—manufacturer Part Number (P/N) A–511000B28B was due to fatigue. Already in the year 1993 two failures of P/N A–511000B28B axles occurred. Those events led in 1994 the Luftfahrt-Bundesamt—Germany's National Aviation Authority—to publish Airworthiness Directive (AD) D–1994–042 to mandate the replacement of A–511000B28B axles by improved-design axle with P/N A–511000C28B (Dornier Luftfahrt GmbH Service bulletin 228–214).

It is believed that a misinterpretation of the Dornier 228 repair/maintenance documentation caused inadvertent installation of A–511000B28B axle on the accident aeroplane's main landing gear with P/N A–511000C00F. This configuration was not approved for installation and was therefore not addressed by LBA AD D–1994–042 or Dornier SB–228–214.

The actions specified in this Airworthiness Directive are intended to prevent main landing gear failure, which could result in loss of control of the aeroplane during landing operations.

The MCAI requires inspection of the main landing gear (MLG) and, if applicable, replacement of the MLG stub axle.

Actions and Compliance

(f) Unless already done, do the following actions following RUAG Aerospace Defence Technology Dornier 228 Service Bulletin SB–228–276, dated October 16, 2008:

(1) Within the next 14 days after the effective date of this AD, inspect the main landing gear (MLG) stub axle.

(2) If any P/N A–511000B28B stub axle is found, upon accumulation of 9,500 total landings on the axle or before further flight after the effective date of this AD, whichever occurs later, replace the axle or the housing assembly with a new axle P/N A–511000C28B. If the total number of landings accumulated by the stub axle cannot be positively determined, the stub axle must be considered to have accumulated more than 9,500 total landings.

Note 1: Operators that do not have landing (or cycle) records may determine the number of landings (or cycles) by dividing the number of hours time-in-service of each airplane by the time of the average flight for the aircraft of that type in the operator's fleet.

Note 2: P/N A–511000C28B axle together with the housings P/N A–511000C27B and P/N A–521000C27B form the Axle Assemblies P/N AD511010A00C and P/N AD521010A00C, which are life limited to 48,000 landings per the Dornier 228 Time Limits/Maintenance Checks Manual (TLMCM) Chapter 05–10–10.

(3) As of the effective date of this AD, do not install MLG assemblies P/N A–511000C00F and P/N A–521000C00F fitted with a P/N A–511000B28B stub axle on any airplane.

FAA AD Differences

Note 3: This AD differs from the MCAI and/or service information as follows: No differences.

Other FAA AD Provisions

(g) The following provisions also apply to this AD:

(1) Alternative Methods of Compliance (AMOCs): The Manager, Standards Office, 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: Greg Davison, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4130; fax: (816) 329–4090. Before using any approved AMOC on any airplane to which the AMOC applies, notify your appropriate principal inspector (PI) in the FAA Flight Standards District Office (FSDO), or lacking a PI, your local FSDO.

(2) Airworthy Product: For any requirement in this AD to obtain corrective actions from a manufacturer or other source, use these actions if they are FAA-approved. Corrective actions are considered FAA-approved if they are approved by the State of Design Authority (or their delegated agent). You are required to assure the product is airworthy before it is returned to service.

(3) Reporting Requirements: For any reporting requirement in this AD, under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 et seq.), the Office of Management and Budget (OMB) has approved the information collection requirements and has assigned OMB Control Number 2120–0056.

Related Information

(h) Refer to EASA AD No.: 2009–0062, dated March 13, 2009; and RUAG Aerospace Defence Technology Dornier 228 Service Bulletin SB–228–276, dated October 16, 2008, for related information.

Issued in Kansas City, Missouri, on June 19, 2009.

James E. Jackson,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. E9–14994 Filed 6–24–09; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1 and 31

[REG–146893–02, REG–115037–00, REG–138603–03]

RIN 1545–BI78, 1545–BI80, 1545–BI79

Treatment of Services Under Section 482; Allocation of Income and Deductions From Intangibles; Stewardship Expense; Correction

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Correction to a notice of proposed rulemaking.

SUMMARY: This document contains a correction to a notice of proposed rulemaking (REG–146893–02, REG–115037–00, and REG–138603–03) that was published in the **Federal Register**, on Friday, August 4, 2006 (71 FR 44247) providing guidance regarding the treatment of controlled services transactions under section 482 and the allocation of income from intangibles, in particular with respect to contributions

by a controlled party to the value of an intangible owned by another controlled party, and modifying the regulations under section 861 concerning stewardship expenses to be consistent with the changes made to the guidance under section 482.

FOR FURTHER INFORMATION CONTACT: Concerning REG–146893–02 and REG–115037–03, Carol B. Tan or Gregory A. Spring, (202) 435–5265; Concerning REG–138603–03, Richard L. Chewning, (202) 622–3850 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Background

The notice of proposed rulemaking (REG–146893–02, REG–115037–00 and REG–138603–03) that is the subject of this document is under sections 482, 861, 6038, 6662, and 3121 of the Internal Revenue Code.

Need for Correction

As published, the notice of proposed rulemaking (REG–146893–02, REG–115037–00, and REG–138603–03) contains regulation identification numbers (RINs) that must be corrected.

Correction of Publication

Accordingly, the publication of a notice of proposed rulemaking (REG–146893–02, REG–115037–00, and REG–138603–03), which was the subject of FR Doc. 06–6674, is corrected as follows:

On page 44247, in the document heading, the language ''RIN 1545–BB31, 1545–AY38, 1545–BC52'' is corrected to read ''RIN 1545–BI78, 1545–BI80, 1545–BI79''.

LaNita Van Dyke,

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

[FR Doc. E9–14927 Filed 6–24–09; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1910

[Docket No. OSHA–2007–0006]

RIN 1218–AC29

Abbreviated Bitrex® Qualitative Fit-Testing Protocol

AGENCY: Occupational Safety and Health Administration (OSHA); Labor.

ACTION: Proposed rule; withdrawal.

SUMMARY: After thoroughly reviewing the comments and other information available in the record for the proposed rulemaking, OSHA decided that the abbreviated Bitrex® qualitative fit test is not sufficiently accurate to include among the qualitative fits tests listed in Part II of Appendix A of its Respiratory Protection Standard. Therefore, OSHA is withdrawing the proposed rule without prejudice, and is inviting resubmission of the proposed fit test after conducting further research to improve the accuracy of the protocol.

DATES: Effective June 25, 2009, the proposed rule published December 26, 2007 (72 FR 72971) is withdrawn.

FOR FURTHER INFORMATION CONTACT: *General information and press inquiries:* Contact Ms. Jennifer Ashley, Office of Communications, Room N–3647, OSHA, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210; telephone (202) 693–1999.

Technical inquiries: Contact Mr. John E. Steelnack, Directorate of Standards and Guidance, Room N–3718, OSHA, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210; *telephone:* (202) 693–2289; *facsimile:* (202) 693–1678. Electronic copies of this **Federal Register** notice, as well as news releases and other relevant documents, are available at OSHA's Web page at *http://www.osha.gov*.

SUPPLEMENTARY INFORMATION:

I. Background

Part I to Appendix A of OSHA's Respiratory Protection Standard at 29 CFR 1910.134 currently includes four qualitative fit-testing protocols using the following challenge agents: Isoamyl acetate; saccharin-solution aerosol; Bitrex® (denatonium benzoate) aerosol in solution; and irritant smoke (stannic chloride). Part II to Appendix A specifies the procedure by which OSHA determines whether to propose adding a new fit-testing protocol to the Respiratory Protection Standard. The criteria used in making this determination include: (1) A test report prepared by an independent government research laboratory (*e.g.,* Lawrence Livermore National Laboratory, Los Alamos National Laboratory, the National Institute for Standards and Technology) stating that the laboratory tested the protocol and found it to be accurate and reliable; or (2) an article published in a peer-reviewed industrial-hygiene journal describing the protocol and explaining how the test data support the protocol's accuracy and reliability. If a fit-testing protocol meets one of these criteria, OSHA must initiate notice-and-comment rulemaking on the proposed fit-testing protocol under Section 6(b)(7) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 655).

II. Summary and Explanation of the Withdrawal Notice

A. Introduction

In the letter submitting the abbreviated Bitrex® qualitative fit-testing (ABQLFT) protocol for review under the provisions of Appendix A of OSHA's Respiratory Protection Standard (Ex. OSHA–2007–0006–0002), Dr. Michael L. Runge of the 3M Company included a copy of a peer-reviewed article from an industrial-hygiene journal describing the accuracy and reliability of the ABQLFT protocol (Ex. OSHA–2007–0006–0003). This article also described in detail the equipment and procedures required to administer the ABQLFT protocol. According to this description, the protocol is a variation of the existing Bitrex® qualitative fit-testing protocol developed by the 3M Company in the early 1990s, which OSHA approved for inclusion in the final Respiratory Protection Standard. The ABQLFT protocol uses the same fit-testing requirements and instrumentation specified for the existing Bitrex® qualitative fit-testing protocol in paragraphs (a) and (b) of Part I.B.4 of Appendix A of the Respiratory Protection Standard, with the following two exceptions:

- Exercise times are reduced from 60 seconds to 15 seconds; and
- The ABQLFT protocol is used only with test subjects who can taste the Bitrex® screening solution within the first 10 squeezes of the nebulizer bulb (referred to as ''Level 1 sensitivity'').

The peer-reviewed article submitted by the 3M Company describing the study conducted on the ABQLFT, entitled ''Development of an Abbreviated Qualitative Fit Test Using Bitter Aerosol,'' appeared in the Fall/Winter 2003 issue of the *Journal of the International Society for Respiratory Protection* (hereafter, ''the ABQLFT study'' or ''the study''; Ex. OSHA–2007–0006–0003). The authors of the study were T.J. Nelson of NIHS, Inc., and L.L. Janssen, M.D. Luinenburg, and H.E. Mullins of the 3M Company; the 3M Company supported the study. The study described by the article determined whether performing a fit test involving seven exercises lasting 15 seconds each while exposed to Bitrex® solution aerosol yielded fit-testing results similar to results obtained with a generated-aerosol (*i.e.,* corn oil) quantitative fit test (GAQNFT) using one-minute exercises (*i.e.,* the GAQNFT was the criterion measure or ''gold standard'').

The study involved 43 experienced respirator users, 20 females and 23 males. The test subjects followed the existing Bitrex® qualitative fit-testing protocol in Appendix A of OSHA's Respiratory Protection Standard except that they performed each of the fit-testing exercises for 15 seconds (instead of 60 seconds) while wearing a NIOSH-certified elastomeric half-mask respirator equipped with P100 filters. The authors selected the best fitting respirator for each test subject from among four models, each available in three sizes; some test subjects used more than one model during fit testing. In addition, the authors induced poor respirator fits by assigning a respirator to test subjects that was one or two sizes too small or too large as determined by the Los Alamos National Laboratory panel-grid size and observation of the test subjects' facial characteristics. Test subjects could adjust the respirator facepiece for comfort, but they did not perform user seal checks.

In conducting the study, the authors used the recommendations for evaluating new fit-test methods specified by Annex A2 of ANSI Z88.10–2001, including sequencing the ABQLFT and GAQNFT in random order without disturbing facepiece fit. The authors used fit-test sample adaptors or respirators with fixed probes to collect samples inside the respirator. The sample point inside the respirator was located between the nose and the mouth. For both fit tests, the authors had the test subjects perform seven of the eight exercises listed in Part I.A.14 of Appendix A of OSHA's Respiratory Protection Standard, which included: Normal breathing, deep breathing, turning the head side to side, moving the head up and down, reading a passage, bending over, and normal breathing.[1] For the GAQNFT, the authors performed particle counts at one-second intervals inside a test chamber for 15–30 seconds before and after fit testing, and inside the respirator for the 60-second duration of each exercise.

The 43 test subjects used in the study had Level 1 sensitivity to Bitrex® because they were able to taste the Bitrex® aerosol within 10 squeezes of the nebulizer bulb. Subjects having Level 2 or 3 sensitivity to Bitrex® were excluded from further participation in the study because the nebulizer could not be replenished for additional taste testing within the 15 seconds allotted to perform each fit-testing exercise. After the test subjects passed a Bitrex® sensitivity-screening test, the authors administered the ABQLFT using the procedures and techniques specified for the existing Bitrex® qualitative fit-testing protocol in Part I.B.14 of Appendix A of OSHA's Respiratory Protection Standard, and determined the fit factor using the particle count for the 15-second duration of each exercise.

The authors required a fit factor of 100 to pass a fit test, which served as the basis for determining the following statistics for the ABQLFT: Test sensitivity; predictive value of a pass; test specificity; and predictive value of a fail. In calculating these statistics, the authors adopted the variables defined by ANSI Z88.10–2001, in which: A = false positives (passed the fit test with a fit factor < 100); B = true positives (passed the fit test with a fit factor ≥ 100); C = true negatives (failed the fit test with a fit factor < 100); and D = false negatives (failed the fit test with a fit factor ≥ 100). Using these variables, ANSI Z88.10–2001 specifies the formula and recommended value (RV) for each statistic as follows: Test sensitivity = C/(A + C), RV ≥ 0.95; predictive value of a pass = B/(A + B), RV ≥ 0.95; test specificity = B/(B + D), RV > 0.50; and predictive value of a fail = C/(C + D), RV > 0.50.

Using the GAQNFT as the criterion measure, the variables for the ABQLFT had the following values: A = 4; B = 95; C = 48; and D = 20. The statistics calculated for the ABQLFT from these values were: Test sensitivity = 0.92; predictive value of a pass = 0.96; test specificity = 0.83; and predictive value of a fail = 0.71. Therefore, every statistic for the ABQLFT, except test sensitivity, attained a value in excess of the ANSI Z88.10–2001 recommended value.

The test-sensitivity value of 0.92 for the ABQLFT fell below the ANSI recommended value of 0.95. The authors state that this slight difference represents a single false positive value for the ABQLFT (*i.e.,* failed the GAQNFT but passed the ABQLFT). However, an additional peer-reviewed article submitted by Dr. Runge of the 3M Company suggests an alternative approach to examining these test-sensitivity values (*see* Ex. OSHA–2007–0006–0004). This article, entitled ''Recommendations for the Acceptance Criteria for New Fit Test Methods'' and published in the Spring/Summer 2004 issue of the *Journal of the International Society for Respiratory Protection,* describes an analytical study conducted by T. J. Nelson of NIHS, Inc. and H. Mullins of the 3M Company, and supported by the 3M Company. In this study, the authors performed a binary logistic-regression analysis on pass-fail fit-testing data from published studies involving two quantitative, and two qualitative, fit tests. The authors justify using the binary logistic-regression analysis for this purpose as follows:

> When a simple sensitivity test is used to describe a new test, the result can be affected by the distribution of the data. In several cases using the theoretical distributions described in this paper, the outcome of a sensitivity test for the Bitrex and Ambient Particle Counter fit tests could have failed to meet the ANSI Z88.10 sensitivity requirement. The method used to determine acceptability should be independent of specific data collected. (*See* Ex. OSHA–2007–0006–0004, p. 8.)

The results of the binary logistic-regression analysis performed on the ABQLFT data showed that the ABQLFT had a 0.20 probability of passing a respirator user with a fit factor of 50 and a 0.33 probability of passing a respirator user with a fit factor of 100. Figure 3 of the article compares the binary logistic-regression analysis results of test-sensitivity values obtained for a popular quantitative fit test and the existing 60-second Bitrex® qualitative fit test. The authors conclude that the analysis demonstrates that the distribution of fit-testing data affected the test-sensitivity values derived using the ANSI Z88.10–2001 test-sensitivity calculations. Based on this analysis, the authors assert that ''a sensitivity calculation may not be the best indicator of fit test method performance. The binary logistic regression analysis shows that the result of the 15 second exercise time test is very similar to the ambient aerosol and 60 second bitter aerosol tests'' (Ex. OSHA–2007–0006–0003, p. 108). In summarizing the results, the authors state that ''[t]he 15 second bitter aerosol protocol sufficiently screens for adequate respirator fit in subjects with Level 1 Bitrex taste sensitivity.''

After carefully reviewing the peer-reviewed articles submitted in support of the ABQLFT, OSHA determined that the protocol met the second criterion specified in Appendix A of the Respiratory Protection Standard, and then developed a proposal to add a new fit-testing protocol to the standard. OSHA published the proposal in the **Federal Register** on December 26, 2007 (*see* 72 FR 72971).

B. Issues Raised for Public Comment

In the **Federal Register** notice announcing the proposal, OSHA invited comments and data from the public regarding the accuracy and reliability of the proposed ABQLFT protocol, its effectiveness in detecting respirator leakage, and its usefulness in selecting respirators that will protect employees

[1] The test subjects did not perform the grimace exercise.

from airborne contaminants in the workplace. Specifically, the Agency invited public comment on the following issues:

- Were the studies described in the submitted articles well controlled, and conducted according to accepted experimental design practices and principles?
- Were the results of the studies described in the submitted articles properly, fully, and fairly presented and interpreted?
- Will the proposed ABQLFT protocol generate reproducible fit-testing results, and what additional experiments or analyses of existing data are necessary to answer this question?
- Will the proposed ABQLFT protocol reliably identify respirators with unacceptable fit as effectively as the qualitative fit-testing protocols, including the existing Bitrex® qualitative fit-testing protocol, already listed in Part I.B of Appendix A of the Respiratory Protection Standard?
- What is the significance of the test-sensitivity value of 0.92 obtained for the ABQLFT relative to the test-sensitivity value of 0.95 recommended by ANSI Z88.10–2001, and does the authors' assertion that ''a sensitivity calculation may not be the best indicator of fit test method performance'' adequately account for the lower test-sensitivity value?
- What is the significance of limiting the ABQLT to respirator users who demonstrate Level 1 sensitivity to Bitrex®?

C. Summary of the Public Comments Received

Twenty-two commenters submitted responses to the proposal. The following paragraphs in this section address the responses made to each of the six issues described previously, as well as additional issues addressed by the commenters themselves.

1. Were the studies described in the submitted articles well controlled, and conducted according to accepted experimental design practices and principles? In addressing this issue, NIOSH stated:

> The primary journal article cited, *Development of an Abbreviated Qualitative Fit Test Using Bitter Aerosol* by Nelson *et al.* [2003], does not provide sufficient detail about the study design and protocol to enable a complete assessment of how well it was controlled and conducted. The description in the article does indicate that design and principles met acceptable practices. (*See* Ex. OSHA–2007–0006–0026.)

Jeff Weed asserted that the study did not exclude from the statistical analysis the fit factors used to determine the reference-method fit factors within one standard deviation of the required fit factor, a determination required under ANSI Z88.10–2001 (Ex. OSHA–2007–0006–0020.1).

Generally, the NIOSH comment appears to support the design practices and principles used in the study, and did not elaborate on what additional detail would ''enable a complete assessment of how well [the study] was controlled and conducted.'' Jeff Weed's comment appears to be mistaken because page 104 of the article describing the study (*see* Ex. OSHA–2007–0006–0003) states that the ''[f]ive fit factors within one standard deviation of the required fit factor of 100 (86 to 114) were excluded from the data analysis as recommended by Z88.10.'' Therefore, OSHA concludes that the study was well controlled, and conducted according to accepted experimental design practices and principles.

2. Were the results of the studies described in the submitted articles properly, fully, and fairly presented and interpreted? NIOSH made the following comments regarding this issue:

> NIOSH is concerned that the interpretation of the study results does not appropriately represent the performance of the fit testing protocol. The authors correctly stated that a shortened bitter aerosol fit test method relies on two assumptions: (1) Fit does not significantly change during an exercise and (2) people being tested will respond to the bitter taste of Bitrex® in the shorter time period. The results of the study support the second assumption, *i.e.,* the test subjects classified with Level 1 sensitivity responded to the bitter taste of Bitrex® in the shorter time period. However, the study results do not provide convincing evidence to support the first assumption. * * *
>
> The consistency of the respirator's fit throughout each of seven exercises is important in the assessment of the performance of the ABQLFT fit test protocol. The fit factor assigned for each ABQLFT exercise in the study is based on a 15-second increment, in contrast to a 60-second increment for each of the same exercises performed in quantitative fit test (GAQNFT) protocol. Change in fit during an exercise suggests that the fit at the start of the next 60-second exercise in the GAQNFT is more likely to differ from the fit at the start of the corresponding 15-second exercise period of the ABQLFT. There is no indication that the authors considered the significance of the noted changes in fit on the accuracy of the assigned fit factors. (*See* Ex. OSHA–2007–0006–0026.)

Pages 104, 105, and 107 of the article describing the study (*see* Ex. OSHA–2007–0006–0003) addressed NIOSH's concerns about the variability of respirator fit for the 15-second and 60-second exercise periods, at least for the GAQNFT. Page 104 of the article states that the correlation between fit factors assessed for the two exercise periods was highly significant, with r = 0.97, while the text and figure on page 108 of the article note that variability was low for fit factors less than 100 and over 6,000. These results demonstrate convincingly that respirator fit factors, especially for fit factors in the range of interest (*i.e.,* having values at and below 100), were reasonably consistent and stable across the 15-second and 60-second exercise periods.

Jeff Weed commented (*see* Ex. OSHA–2007–0006–0020.1) that the study did not report a Kappa value, which ANSI Z88.10–2001 defines as the ''statistic (K) used to calculate some degree of agreement between two fit tests''; the ANSI standard *recommends* a minimum Kappa value greater than 0.70. Based on the equation for the Kappa statistic provided in Annex A2 of the ANSI standard, Mr. Weed calculated the Kappa value for the study data as 0.69, which corresponds closely to our calculation of 0.70, rounded from a figure of 0.69565. OSHA concludes, that the Kappa value calculated from the study data indicates an acceptable degree of agreement between the two fit tests used in the study, and conforms satisfactorily with the value recommended by the ANSI standard.

3. Will the proposed ABQLFT protocol generate reproducible fit-testing results, and what additional experiments or analyses of existing data are necessary to answer this question? NIOSH questioned the reproducibility of the fit-testing results, stating:

> Based on review of Nelson et al. [2003] and Nelson and Mullins [2004], NIOSH concludes that the evidence is inadequate to demonstrate reproducible fit testing results. Further investigation is required to compare potential changes in fit across the proposed 15-second exercise intervals in the ABQLFT protocol and the standard 60 second exercise intervals in the GAQNFT protocol. At a minimum, the frequency and consistency of leaks during each exercise, as well as the magnitude and type of those leaks (*e.g.* start of exercise, end of exercise, throughout exercise period) need to be identified and analyzed. (*See* Ex. OSHA–2007–0006–0026.)

OSHA addressed NIOSH's concern regarding the variability of respirator fit for the 15-second and 60-second exercise periods above (*see* item C.2 of this section).

Jeff Weed questioned whether employers could reproduce the results of the ABQLFT study in the workplace, stating:

> When qualitative fit test (QLFT) methods such as the ABQLFT are performed in a laboratory by researchers, the results are

reasonably reproducible. Researchers are keenly aware of the potential mistakes that cause variability, such as the manner in which the nebulizer bulb is squeezed (e.g. fully vs. partly, with the palm vs. the fingers, slowly vs. quickly). The way the nebulizer is used has a significant affect on the mass of agent that is injected into the fit test hood. Unfortunately, studies such as the one by Nelson do not take the practicality of the fit test method into account, when implemented by lay-persons. (*See* Ex. OSHA–2007–0006–0020.1.)

The authors of the ABQLFT study mention on page 103 of the article describing the study (*see* Ex. OSHA–2007–0006–0003) that ''[t]he bitter aerosol fit test followed the procedure outlined in the OSHA respirator standard, except that a 15 second exercise period was used.'' Section B.4 of Part I in Appendix A of that standard describes in elaborate detail how to administer properly the Bitrex® solution aerosol using the nebulizer bulb. OSHA holds that this description of the procedure is adequate, and that employers are responsible for complying fully with the procedure as described in OSHA's Respiratory Protection Standard. In addition, Mr. Weed's comment appears to be speculative in that he provided no evidence to support it.

Ching-tsen Bien mentioned that ''[t]here is only one repeated test on the same test subject with a standard deviation of 14'' (Ex. OSHA–2007–0006–0017.1). In a response to Mr. Bien, Robert A. Weber of 3M stated (*see* Ex. OSHA–2007–0006–0021.1) that Mr. Bien's comment describes the requirement specified in Annex A2 of ANSI Z88.10–2001. Mr. Weber quotes this requirement from Annex A2 as follows: ''One standard deviation for the reference method can be approximated by identifying a subject having a fit factor near the required fit factor and making measurements on this subject during a single mask donning to determine system reproducibility.'' OSHA believes that Mr. Weber's response appropriately addresses Mr. Bien's concern.

4. Will the proposed ABQLFT protocol reliably identify respirators with unacceptable fit as effectively as the qualitative fit-testing protocols, including the existing Bitrex® qualitative fit-testing protocol, already listed in Part I.B of Appendix A of the Respiratory Protection Standard? Pete Stafford of the Building and Construction Trades Department, AFL–CIO, questioned whether the 15-second exercise periods prescribed by the proposed ABQLFT protocol were sufficient to challenge the face-to-facepiece seal, stating:

> In the abbreviated protocol, normal and deep breathing exercises would only allow four to five breaths in 15 seconds. Side to side and up and down exercises might only allow one cycle of each in 15 seconds. The talking exercise would be difficult to accomplish, as the rainbow passage presents a variety of facial expressions, and could not be completed in the 15 second time frame.'' (*See* Ex. OSHA–2007–0006–0024.)

NIOSH argued that with the aerosol concentration replenished only once every 30 seconds, the exercise occurring during the first 15 seconds of this 30-second period would be near the maximum aerosol concentration, while the exercise occurring during the last 15-second period would be near the minimum concentration that occurs after filtration removes much of the aerosol from the hood. NIOSH further noted:

> * * * [T]he 60-second exercise duration in the OSHA-accepted Bitrex® protocol would be conducted through two complete 30-second concentration-cycles, whereas the 15-second exercises of the ABQLFT were conducted through only half of one. While the variation in the aerosol concentration during this procedure has not been documented, the fact that the replenishing amount is half the quantity to establish the appropriate test challenge (for a fit factor of at least 100) suggests that variability could significantly affect the results. In addition, the variability in subjects' ability to taste Bitrex® at reduced concentrations, and the impact on the pass/fail results, needs to be determined and analyzed. (*See* Ex. OSHA–2007–0006–0024.)

OSHA finds that the comments submitted by both Pete Stafford and NIOSH did not adequately consider the effects the alleged deficiencies should have on the results of the ABQLFT study. Failure to adequately challenge the facepiece-to-face seal, and low levels of aerosol present during an exercise, should increase the number of false positives, but the study data show no such effect. Therefore, absent any supporting data or analyses, OSHA considers these comments to be speculative.

A number of commenters stated that the proposed protocol would not reliably assess proper fit for filtering-facepiece respirators because the authors did not include these respirators in the study design. In this regard, NIOSH noted that ''the submitted study did not include any filtering facepiece respirators. This type of respirator is commonly used and likely to be evaluated by the ABQLFT protocol. NIOSH encourages evaluation of filtering facepiece respirators before acceptance of the ABQLFT protocol'' (Ex. OSHA–2007–0006–0026). Ching-tsen Bien asserted that ''the validation testing should be performed on a variety of shapes of N–95 filtering facepieces to ensure that this method would reject inadequate fits for respirators of this type'' (Ex. OSHA–2007–0006–0017.2).

OSHA received additional comments on this issue from Timothy Roberts, who stated, ''Another major concern is that the primary article [Nelson, 2003] did not include filtering facepiece respirators as part of the tests. Filtering facepiece respirators are often tested with the Bitrex qualitative protocol and therefore, the data may not be representative of the adequacy of the ABQLFT proposal for this class of respirators'' (Ex. OSHA–2007–0006–0022). James S. Johnson recommended further testing of filtering facepieces using the proposed ABQLFT protocol, noting, ''A similar study (Article 1) needs to be done with filtering facepiece respirators to demonstrate acceptable performance is achieved with this type of half mask respirator'' (Ex. OSHA–2007–0006–0028).

Robert Weber of 3M addressed the issue of testing filtering-facepiece respirators in his comments (*see* Ex. OSHA–2007–0006–0021.1), stating, ''It is not possible to use N95 filtering facepieces to validate a fit test with submicrometer particle QNFT,'' adding that ''[i]t is an evaluation of facepiece[-]to-face seal only; filter penetration is not included. While filter penetration of submicrometer particles through N95 filters is small, it is not zero.'' Mr. Weber concludes, ''The use of N95 [filtering-facepiece respirators] would therefore skew the data by increasing [false-negative] error, *i.e.* rejecting adequate fits.''

Contrary to Mr. Weber's comments, OSHA finds that testing N95 filtering-facepiece respirators as recommended by the other commenters is not validation testing, but instead is testing that would demonstrate that the proposed ABQLFT protocol performs adequately with N95 filtering-facepiece respirators, even when filter penetration increases false-negative error. Therefore, OSHA could not approve using the proposed ABQLFT protocol for fit testing filtering-facepiece respirators absent appropriate results demonstrating that the proposed protocol adequately determines fit for these respirators.

5. What is the significance of the test-sensitivity value of 0.92 obtained for the ABQLFT relative to the test-sensitivity value of 0.95 recommended by ANSI Z88.10–2001, and does the authors' assertion that ''a sensitivity calculation may not be the best indicator of fit test method performance'' adequately account for the lower test-sensitivity

value? In addressing the first part of this issue (*i.e.*, the significance of the test-sensitivity value of 0.92), Jeff Weed stated, ''[I]t should be noted that of the 5 ANSI criteria, test sensitivity is the only one that ANSI states 'shall' be met. The others carry the 'should' qualifier. In ANSI parlance (paragraph 1.3), the word 'shall' implies a mandatory provision, and 'should' is used for advisory provisions'' (Ex. OSHA–2007–0006–0020.1). Similarly, Bill Kajola of the AFL–CIO stated recommended that OSHA withdraw the proposed rule because ''the most important ANSI criterion for approving a new test method has not been achieved,'' and that ''[t]he research paper used by 3M in support of its application for approval (Ex. OSHA–2007–0006–0003) acknowledges the failure of the 15 second Bitrex fit test protocol to achieve the ANSI test sensitivity of 0.95 or greater, a consensus criteria established by the respiratory protection community'' (Ex. OSHA–2007–0006–0019.1). Timothy Roberts, Mark Haskew, and Ching-tsen Bien stated that failure to achieve the ANSI test-sensitivity criterion was sufficient justification for OSHA not to adopt the ABQLFT (*see* Exs. OSHA–2007–0006–0022, –0023, and 0017.2, respectively). NIOSH believed that the reduced sensitivity-test value demonstrated that the proposed ABQLFT protocol was defective, stating, ''A sufficient number of subjects met fit testing requirements using the ABQLFT protocol and failed using the GAQNFT protocol,'' and that ''[t]he sensitivity test is a critical criterion to ensure the rejection of inadequately fitting respirators'' (Ex. OSHA–2007–0006–0026). NIOSH concluded that ''[b]ecause the observed value of 0.92 is below the ANSI criterion of 0.95, NIOSH considers the value unacceptable.''

In the article describing the ABQLFT study (*see* Ex. OSHA–2007–0006–0003), the authors state that ''[a]dvisory criteria for evaluating new fit test methods outlined in Annex A2 to ANSI Standard Z88.10–2001 were used. * * *'' Therefore, the authors adopted the ANSI standard as the method by which to evaluate the results of the study, including the test-sensitivity criterion which, as stated above by Mr. Weed, is the only criterion in the ANSI standard that is mandatory. OSHA believes adopting the ANSI standard is appropriate because that standard represents the consensus of the industrial-hygiene community regarding the criteria to use in assessing fit-testing protocols. The comments described in the previous paragraph clearly demonstrate that the industrial-hygiene community generally supports using the ANSI standard for this purpose.

In comments submitted to the record, Robert Weber of 3M noted that ''there is little significance to the test sensitivity of 0.92 versus a criterion of 0.95'' (Ex. OSHA–2007–0006–0021.1). On page 108 of the article describing the ABQLFT study (*see* Ex. OSHA–2007–0006–0003), the authors observe that ''[t]he difference between a sensitivity of 0.92 and a value greater than 0.95 in this comparison is one fit test where a person with a generated fit factor less than 100 passed the bitter aerosol fit test.'' Based on Table 1 in this article, the 0.95 criterion would permit three false-positive test subjects out of 167 subjects tested (i.e., 0.018% of the total subjects tested), while the obtained value of 0.92 resulted in four false-positive test subjects (i.e., 0.024% of the subjects tested).

In the NIOSH–Bureau of Labor Statistics survey of respirator use cited in the proposal (NIOSH–BLS survey; Ex. 6–3, Docket H–049C), 282,000 establishments in the United States required respirator use, and these establishments fit tested about 3.3 million employees each year. According to the NIOSH–BLS survey, 18,938 (0.067%) of these establishments used the existing Bitrex® qualitative fit-testing protocol.[2] Assuming that these establishments would substitute the proposed ABQLFT protocol for the existing Bitrex® qualitative fit-testing protocol, and that the distribution of employees across size classes for these establishments is representative of the establishments as a whole,[3] then 221,100 employees would receive the proposed ABQLFT protocol annually (i.e., 0.067% × 3.3 million employees).

Under the 0.95 sensitivity-test criterion value for the ANSI Z88.10–2001 standard, about 3,980 employees with improperly fitting respirators would pass the proposed ABQLFT protocol each year (i.e., a 0.018% false-positive rate × 221,100 total employees tested), while the 0.92 sensitivity-test value obtained for the proposed protocol would result in about 5,306 employees passing the test with improperly fitting respirators (i.e., a 0.024% false-positive rate × 221,100 total employees tested). OSHA believes that the 3,980 employees with false-positive values that would result from using the sensitivity-test criterion from the ANSI standard are too high; therefore, adding 1,326 employees each year to this already excessive figure is unacceptable. Contrary to the previously cited statement made by Mr. Weber from 3M, OSHA finds that the significance between test sensitivity values of 0.92 and 0.95, when viewed in practical terms, is highly significant because an additional 1,326 employees would not have adequate respiratory protection in the workplace. OSHA believes that the contribution of ANSI Z88.10–2001 to the process of evaluating proposed respirator fit-testing protocols is to provide procedures that OSHA can use in determining the practical effects of errors that result from the administration of these proposed protocols. Therefore, based on this analysis involving the sensitivity-test criterion from the ANSI standard, OSHA concludes that it cannot include the proposed ABQLFT protocol among the qualitative fit tests currently listed in Part I.B of Appendix A of its Respiratory Protection Standard.

Regarding the second part of this issue (*i.e.,* that the sensitivity calculations may not be the best indicator of fit-test performance), the authors of the study recommended using binary logistic-regression analysis to determine sensitivity of the proposed protocol instead of the test-sensitivity criterion specified by ANSI Z88.10–2001. Every comment submitted to the record opposed this recommendation. For example, NIOSH stated:

> A second cited journal article [Nelson and Mullins 2004] examined the treatment of data from previously reported studies, including the 2003 Nelson study, by use of a new method of data analysis. A more thorough evaluation of the method of data analysis should be undertaken to ensure the studies used to validate the new method include an appropriate range of fit factors and respirator designs.
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> * * * * *
>
> The argument by the study authors that ''the method used to determine acceptability should be independent of specific data collected'' is not convincing. A sufficient number of subjects met fit testing requirements using the ABQLFT protocol

[2] The proposal cited a figure of ''approximately 25,000 establishments,'' but this figure is for the original Controlled Negative Pressure quantitative fit-testing protocol specified by OSHA when it first published the Respiratory Protection Standard in 1998, not for the existing Bitrex® qualitative fit-testing protocol.

[3] The term ''size classes'' refers to the number of employees in the establishments; the NIOSH–BLS survey designates these classes as follows: 1–10 employees; 11–19 employees; 11–49 employees; 50–249 employees; 250–999 employees; and 1,000 and more employees. A cursory review of the size-class distribution in the NIOSH–BLS survey shows that 0.088% of the total number of establishments have 1,000 or more employees, while 0.094% of establishments administering the existing Bitrex® qualitative fit-testing protocol have 1,000 or more employees; this comparison indicates that the distribution of size classes for the latter establishments is similar to the distribution of size classes for the establishments as a whole.

and failed using the GAQNFT protocol. These results were determined to be below the ANSI Z88.10–2001 recommended criteria of 0.95 for the test-sensitivity value. Recalculating test sensitivity (proportion of failed reference method fit tests that also failed the new fit-test method) via alternative statistical techniques, or questioning the validity of the sensitivity calculation as an appropriate indicator of fit-test method performance to rationalize a positive conclusion, is a questionable response to the study outcome. The sensitivity test is a critical criterion to ensure the rejection of inadequately fitting respirators. Because the observed value of 0.92 is below the ANSI criterion of 0.95, NIOSH considers the value unacceptable. If the method of data analysis is changed, the new method needs to be thoroughly evaluated before challenging the standard criterion. (*See* Ex. OSHA–2007–0006–0026.)

Bill Kajola of the AFL–CIO recommended that OSHA not sanction the binary logistic-regression analysis as an alternate method for analyzing the study results, stating, ''There is no data or confirmation to suggest that a 'binary logistic regression analysis' is an appropriate and adequate means to evaluate a new fit test method'' (OSHA–2007–0006–0019.1). James S. Johnson believed it was premature to use binary logistic-regression analysis to analyze the study data, asserting that ''[t]he proposed change is too significant to be based on one study that has to have additional mathematical analysis and assumptions proposed to pass the ANSI Z88.10 requirements'' (Ex. OSHA–2007–0006–0028). Daniel K. Shipp of the International Safety Equipment Association commented that binary logistic-regression analysis ''be validated by an additional source'' (Ex. OSHA–2007–0006–0027).

As noted earlier, none of the comments submitted to the record supported using binary logistic-regression analysis to interpret the study results. These comments clearly indicate that this analytic technique is currently inappropriate for use in determining the sensitivity of fit-testing protocols. OSHA agrees with these comments, and believes that the technique requires additional validation before it will be acceptable for this purpose.

6. What is the significance of limiting the ABQLT to respirator users who demonstrate Level 1 sensitivity to Bitrex®? Few commenters responded to this issue. NIOSH observed that information about ''the number or percentage of subjects in [the] study who did not meet Level 1 sensitivity to Bitrex®'' was not available in the article describing the study (*see* Ex. OSHA–2007–0006–0003), and, therefore, ''NIOSH is unable to estimate the proportion of workers in the population who demonstrate Level 1 sensitivity to Bitrex®'' (Ex. OSHA–2007–0006–0026). As a result, NIOSH found that ''the utility of the proposed ABQLFT protocol can not be determined at this time.'' James S. Johnson commented that determining Level 1 sensitivity is a restriction that ''adds another level of complexity to the test protocol'' (Ex. OSHA–2007–0006–0028). Ching-tsen Bien believed that using Level 1 sensitivity for screening purposes ''does not prevent some test conductors who ignore this limitation and use the ABQLFT method to fit test any worker, and it may result in the selection of [the] wrong respirator for workers with Levels 2 or 3 sensitivity * * *'' (Ex. OSHA–2007–0006–0017.1). None of these comments challenged the validity or accuracy of the Level 1 sensitivity procedure; accordingly, OSHA concludes that the ABQLFT study used the procedure appropriately, and that it accurately screened the test subjects for sensitivity to Bitrex®.

7. Miscellaneous issues addressed by the comments. Several commenters objected that the test subjects in the ABQLFT study did not perform seal checks while using the respirators. For example, James S. Johnson stated that ''[t]he exclusion of the users seal check may bias the data and this isn't representative of how this procedure is normally done'' (Ex. OSHA–2007–0006–0028). In response to the commenters, OSHA notes that the test subjects in the study used respirators that were one or two sizes too small or too large to ensure that a number of poor respirator fits occurred. This procedure induced poor facepiece-to-face seals, which caused the respirators to leak. These leaks, in turn, provided data for use in determining how effectively the proposed ABQLFT protocol detected such leaks. The authors of the ABQLFT study explained the absence of seal checks as follows: ''Experience in this laboratory has shown that people who participate in fit tests on a frequent basis and who are allowed to perform user seal checks can adjust most respirators to fit well enough to pass a fit test (Janssen, 2002). For this reason, the subjects were instructed to adjust the facepiece until comfortable but were not permitted to perform a user seal check'' (Ex. OSHA–2007–0006–0003). Therefore, OSHA concludes that removing seal checks from the study was necessary to obtain leakage data for use in determining the effectiveness of the proposed ABQLFT protocol.

D. Conclusions

Based on a complete and thorough review of the rulemaking record, OSHA concludes that:

1. The study was well controlled, and conducted according to accepted experimental design practices and principles.

2. The authors of the studies described in the submitted articles presented the the results properly, fully, and fairly in the context of the ANSI Z88.10–2001 consensus standard.

3. The results generated by the proposed protocol provided reproducible fit-testing results, and the experiments and analyses were adequate for this purpose.

4. The results for the proposed protocol were reliable, but OSHA can reach no conclusion regarding how the proposed protocol compares to other qualitative fit-testing protocols because the study did not make these comparisons. Additionally, the study did not demonstrate that the proposed protocol accurately determined fit for N95 filtering-facepiece respirators; therefore, OSHA could not approve the proposed protocol for fit testing this class of respirators.

5. The test-sensitivity value of 0.92 would increase substantially the number of employees who would pass the proposed protocol with improperly fitting respirators, thereby making the proposed protocol unacceptable for listing in Part I.B. of Appendix A of OSHA's Respiratory Protection Standard. In addition, using binary logistic-regression analysis as a substitute for the sensitivity-test criterion in ANSI Z88.10–2001 is premature because the analysis requires additional validation.

6. The results indicate that limiting the proposed protocol to test subjects who demonstrated Level 1 sensitivity to Bitrex® was appropriate.

7. To ensure adequate respirator leakage, the study justifiably omitted seal checks from the experimental procedures.

Additional validation testing of, or revisions to, the proposed ABQLFT protocol may provide new results for the protocol that meet or exceed the sensitivity-test criterion established by the ANSI Z88.10 consensus standard. After submitting these new results and supporting documentation to OSHA, OSHA would evaluate this information and, if appropriate, would submit it to the public for notice and comment. If the revised protocol is to apply to filtering-facepiece respirators, then the resubmission should include testing on these respirators demonstrating that the

revised protocol accurately identifies poor fit among test subjects who use them.

List of Subjects in 29 CFR Part 1910

Hazardous substances, Health, Occupational safety and health, Toxic substances.

Authority and Signature

Jordan Barab, Acting Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210, directed the preparation of this notice. Accordingly, the Agency issues this notice under the following authorities: Sections 4, 6(b), 8(c), and 8(g) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 653, 655, 657); Section 3704 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 3701 *et seq.*); Section 41 of the Longshore and Harbor Worker's Compensation Act (33 U.S.C. 941); Secretary of Labor's Order No. 5–2007 (72 FR 31160); and 29 CFR part 1911.

Signed at Washington, DC, on June 22, 2009.

Jordan Barab,

Acting Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. E9–14979 Filed 6–24–09; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket No. USCG–2009–0460]

RIN 1625–AA08

Special Local Regulation for Marine Events; Mattaponi River, Wakema, VA

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to establish special local regulations during the ''Mattaponi Madness Drag Boat Race Series,'' a series of power boat races to be held on the waters of the Mattaponi River, near Wakema, Virginia. These special local regulations are necessary to provide for the safety of life on navigable waters during the events. This action is intended to restrict vessel traffic during the power boat races in a segment of the Mattaponi River that flows along the border of King William County and King and Queen County near Wakema, Virginia.

DATES: Comments and related material must be received by the Coast Guard on or before July 27, 2009.

ADDRESSES: You may submit comments identified by docket number USCG–2009–0460 using any one of the following methods:

(1) *Federal eRulemaking Portal: http://www.regulations.gov.*

(2) *Fax:* 202–493–2251.

(3) *Mail:* Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590–0001.

(4) *Hand delivery:* Same as mail address above, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329.

To avoid duplication, please use only one of these four methods. *See* the ''Public Participation and Request for Comments'' portion of the **SUPPLEMENTARY INFORMATION** section below for instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: If you have questions on this proposed rule, call or e-mail Dennis Sens, Project Manager, Fifth Coast Guard District Prevention Division, Portsmouth, VA, telephone (757) 398–6204, e-mail *Dennis.M.Sens@uscg.mil.* If you have questions on viewing or submitting material to the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION:

Public Participation and Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related materials. All comments received will be posted without change to *http://www.regulations.gov* and will include any personal information you have provided.

Submitting Comments

If you submit a comment, please include the docket number for this rulemaking (USCG–2009–0460), indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online (via *http://www.regulations.gov*) or by fax, mail, or hand delivery, but please use only one of these means. If you submit a comment online via *http://www.regulations.gov,* it will be considered received by the Coast Guard when you successfully transmit the comment. If you fax, hand delivery, or mail your comment, it will be considered as having been received by the Coast Guard when it is received at the Docket Management Facility. We recommend that you include your name and a mailing address, an e-mail address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

To submit your comment online, go to *http://www.regulations.gov,* select the Advanced Docket Search option on the right side of the screen, insert ''USCG–2009–0460'' in the Docket ID box, press Enter, and then click on the balloon shape in the Actions column. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period and may change the rule based on your comments.

Viewing Comments and Documents

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* select the Advanced Docket Search option on the right side of the screen, insert USCG–2009–0460 in the Docket ID box, press Enter, and then click on the item in the Docket ID column. You may also visit the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. We have an agreement with the Department of Transportation to use the Docket Management Facility.

Privacy Act

Anyone can search the electronic form of comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review a Privacy Act notice regarding our public dockets in the January 17, 2008 issue of the **Federal Register** (73 FR 3316).

Public Meeting

We do not now plan to hold a public meeting. But you may submit a request for one using one of the four methods

specified under **ADDRESSES**. Please explain why you believe a public meeting would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register.**

Background and Purpose

The Mattaponi Volunteer Rescue Squad will be sponsoring a series of power boat racing events titled the ''Mattaponi Madness Drag Boat Event.'' The power boat races will be held on the following dates: August 15, 2009, and in the case of inclement weather, the event will be rescheduled for August 16, 2009. The races will be held on the Mattaponi River immediately adjacent to the Rainbow Acres Campground, King and Queen County, Virginia. The power boat races will consist of approximately 40 vessels conducting high speed straight line runs along the river and parallel with the shoreline. A fleet of spectator vessels is expected to gather near the event site to view the competition. To provide for the safety of participants, spectators and other transiting vessels, the Coast Guard will temporarily restrict vessel traffic in the event area during the power boat races.

Discussion of Proposed Rule

The Coast Guard proposes to establish special local regulations on specified waters of the Mattaponi River, in the vicinity of Wakema, Virginia. The regulated area includes all waters of Mattaponi River immediately adjacent to Rainbow Acres Campground, King and Queen County, Virginia. The regulated area includes a section of the Mattaponi River approximately ¾-mile long and bounded in width by each shoreline, bounded to the east by a line that runs parallel along longitude 076° 52′43″ W, near the mouth of Mitchell Hill Creek, and bounded to the west by a line that runs parallel along longitude 076° 53′41″ W just north of Wakema, Virginia. The effect of this regulation would be to restrict general navigation in the regulated area during the drag boat races. This special local regulation will be enforced from 9 a.m. to 7 p.m. on August 15, 2009; and in the case of inclement weather, the race will be rescheduled for 9 a.m. to 7 p.m. on August 16, 2009. Except for persons or vessels authorized by the Coast Guard Patrol Commander, no person or vessel may enter or remain in the regulated area. Non-participating vessels will be allowed to transit the regulated area between races, when the Coast Guard Patrol Commander determines it is safe to do so. This regulation is needed to control vessel traffic during the event to enhance the safety of participants, spectators and transiting vessels.

Regulatory Analyses

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

Regulatory Planning and Review

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

We expect the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation is unnecessary. Although this regulation will prevent traffic from transiting a portion of the Mattaponi River during the events, the effect of this regulation will not be significant due to the limited duration that the regulated area will be in effect and the extensive advance notification that will be made to the maritime community via marine information broadcast, local radio stations and area newspapers so mariners can adjust their plans accordingly. Additionally, the regulated area has been narrowly tailored to impose the least impact on general navigation yet provide the level of safety deemed necessary. Vessel traffic will be able to transit the regulated area between heats, when the Coast Guard Patrol Commander deems it is safe to do so.

Small Entities

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

The Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule would not have a significant economic impact on a substantial number of small entities: owners or operators of vessels intending to transit this section of the Mattaponi River from 9 a.m. to 7 p.m. on August 15, 2009 and August 16, 2009. This purposed rule would not have significant economic impact on a substantial number of small entities for the following reasons. Although the regulated area will apply to a ¾ mile segment of the Mattaponi River, traffic may be allowed to pass through the regulated area with the permission of the Coast Guard Patrol Commander. In the case where the Patrol Commander authorizes passage through the regulated area during the event, vessels shall proceed at the minimum speed necessary to maintain a safe course that minimizes wake near the race course. The Patrol Commander will allow non-participating vessels to transit the area between races. Before the enforcement period, we will issue maritime advisories so mariners can adjust their plans accordingly.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this proposed rule so that they can better evaluate its effects on them and participate in the rulemaking. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please see the ''**FOR FURTHER INFORMATION CONTACT**'' section. The Coast Guard will not retaliate against small entities that question or complain about this proposed rule or any policy or action of the Coast Guard.

Collection of Information

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

Federalism

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

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires

Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 or more in any one year. Though this proposed rule would not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

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

Indian Tribal Governments

This proposed rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it would not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

Energy Effects

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

Technical Standards

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

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

Environment

We have analyzed this proposed rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have made a preliminary determination that this action is one of a category of actions which do not individually or cumulatively have a significant effect on the human environment. This rule is categorically excluded, under figure 2–1, paragraph (34)(h), of the Instruction. A preliminary environmental analysis checklist supporting this determination is available in the docket where indicated under **ADDRESSES**. This proposed rule involves implementation of regulations within 33 CFR Part 100 that apply to organized marine events on the navigable waters of the United States that may have potential for negative impact on the safety or other interest of waterway users and shore side activities in the event area. The category of water activities includes but is not limited to sail boat regattas, boat parades, power boat racing, swimming events, crew racing, and sail board racing. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

List of Subjects in 33 CFR Part 100

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

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 100 as follows:

PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

1. The authority citation for part 100 continues to read as follows:

Authority: 33 U.S.C. 1233.

2. Add temporary § 100.35–T05–0460 to read as follows:

§ 100.35–T05–0460 Mattaponi River, Wakema, Virginia.

(a) *Regulated area.* The regulated area includes all waters of Mattaponi River immediately adjacent to Rainbow Acres Campground, King and Queen County, Virginia. The regulated area includes a section of the Mattaponi River approximately ¾-mile long and bounded in width by each shoreline, bounded to the east by a line that runs along longitude 076°52′43″ W near the mouth of Mitchell Hill Creek, and bounded to the west by a line that runs along longitude 076°53′41″ W just north of Wakema, Virginia. All coordinates reference Datum NAD 1983.

(b) *Definitions:* (1) *Coast Guard Patrol Commander* means a commissioned, warrant, or petty officer of the Coast Guard who has been designated by the Commander, Coast Guard Sector Hampton Roads.

(2) *Official Patrol* means any vessel assigned or approved by Commander, Coast Guard Sector Hampton Roads with a commissioned, warrant, or petty officer on board and displaying a Coast Guard ensign.

(c) *Special local regulations:* (1) Except for persons or vessels authorized by the Coast Guard Patrol Commander, no person or vessel may enter or remain in the regulated area.

(2) The operator of any vessel in the regulated area shall: (i) Stop the vessel immediately when directed to do so by any Official Patrol.

(ii) Proceed as directed by any official patrol.

(d) *Enforcement period.* This section will be enforced from 9 a.m. to 7 p.m. on August 15, 2009. In the case of inclement weather, this section will be enforced from 9 a.m. to 7 p.m. on August 16, 2009.

Dated: June 10, 2009.

Fred M. Rosa, Jr.,

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

[FR Doc. E9–15023 Filed 6–24–09; 8:45 am]

BILLING CODE 4910–15–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R04–OAR–2008–0676–200820(b); FRL–8903–7]

Approval and Promulgation of Air Quality Implementation Plans; Tennessee; Approval of Revisions to the Knox County Portion

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is taking direct final action to approve a revision to the Knox County portion of the Tennessee State Implementation Plan (SIP) submitted by the State of Tennessee on April 21, 2008. The revision pertains to the Knox County Department of Air Quality Management (KCDAQM) Regulation, Section 25.0 ''Permits,'' specifically subsection 25.6—Exemptions. This revision removes ''mobile sources'' from the list of exempted air contaminant sources, with respect to operating permits and reserves subsection 25.6.A. This revision is part of KCDAQM strategy to attain and maintain the National Ambient Air Quality Standards for 8-hour ozone, particulate matter $(PM)_{2.5}$ and PM_{10}. This revision was certified by the Tennessee Department of Environment and Conservation to be at least as stringent as the State of Tennessee's existing requirements in Chapter 1200–3–9–.04 ''Exemptions,'' and is being approved pursuant to section 110 of the Clean Air Act (CAA).

In the Final Rules Section of this **Federal Register**, EPA is approving the State's SIP revision as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this rule, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period on this document. Any parties interested in commenting on this document should do so at this time.

DATES: Written comments must be received on or before July 27, 2009.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R04–OAR–2008–0676, by one of the following methods:

1. *http://www.regulations.gov:* Follow the on-line instructions for submitting comments.
2. *E-mail: benjamin.lynorae@epa.gov.*
3. *Fax:* (404) 562–9019.
4. *Mail:* ''EPA–R04–OAR–2008–0676,'' Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960.
5. *Hand Delivery or Courier:* Ms. Lynorae Benjamin, Chief, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960. Such deliveries are only accepted during the Regional Office's normal hours of operation. The Regional Office's official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding federal holidays.

Please see the direct final rule which is located in the Rules section of this **Federal Register** for detailed instructions on how to submit comments.

FOR FURTHER INFORMATION CONTACT: Ms. Twunjala Bradley, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960. The telephone number is (404) 562–9352. Ms. Bradley can also be reached via electronic mail at *bradley.twunjala@epa.gov.*

SUPPLEMENTARY INFORMATION: For additional information see the direct final rule which is published in the Rules section of this **Federal Register**.

Dated: June 15, 2009.

Beverly H. Banister,

Acting Regional Administrator, Region 4.

[FR Doc. E9–14871 Filed 6–24–09; 8:45 am]

BILLING CODE 6560–50–P

CHEMICAL SAFETY AND HAZARD INVESTIGATION BOARD

40 CFR Chapter VI

[Docket No. CSB–09–01]

Chemical Release Reporting

AGENCY: Chemical Safety and Hazard Investigation Board.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The Clean Air Act requires that the Chemical Safety and Hazard Investigation Board (CSB) establish a regulation which would require that accidental chemical releases be reported to the CSB or to the National Response Center. With this advance notice of proposed rulemaking, the CSB seeks to obtain comments on how best to proceed with implementing this requirement. The CSB will use this information in the development of a proposed and then a final rule.

DATES: Written comments must be received by the CSB on or before August 4, 2009.

ADDRESSES: You may submit written comments, identified by docket number CSB–09–01, by either of the following methods:

- *E-mail: anpr@csb.gov*. Include CSB–09–01 in the subject line of the message.
- *Mail/Express delivery service:* Chemical Safety and Hazard Investigation Board, Office of General Counsel, Attn: C. Kirkpatrick, 2175 K Street, NW., Suite 650, Washington, DC 20037.

Instructions: All comment submissions must include the agency name and docket number. All comments received, including any personal information provided, will be made available to the public without modifications or deletions. For detailed instructions on submitting comments electronically, including acceptable file formats, see the ''Electronic Submission of Comments'' heading in the **SUPPLEMENTARY INFORMATION** section of this document.

Docket: For information on access to the docket to read comments received by the CSB, see the ''Inspection of Comments'' heading in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Christopher Kirkpatrick, at (202) 261–7600.

SUPPLEMENTARY INFORMATION:

Background

Statutory Requirement

The CSB was established by the Clean Air Act Amendments of 1990. The statute directs the CSB, among other things, to:

> [I]nvestigate (or cause to be investigated), determine and report to the public in writing the facts, conditions, and circumstances and the cause or probable cause of any accidental release resulting in a fatality, serious injury or substantial property damages; and
>
> [R]ecommen[d] measures to reduce the likelihood or the consequences of accidental releases and propos[e] corrective steps to

make chemical production, processing, handling and storage as safe and free from risk of injury as is possible. * * *

42 U.S.C. 7412(r)(6)(C)(i) and (ii).

The CSB's enabling legislation also includes a requirement that the CSB:

> [E]stablish by regulation requirements binding on persons for reporting accidental releases into the ambient air subject to the Board's investigatory jurisdiction. Reporting releases to the National Response Center, in lieu of the Board directly, shall satisfy such regulations. The National Response Center shall promptly notify the Board of any releases which are within the Board's jurisdiction.

42 U.S.C. 7412(r)(6)(C)(iii).

The statute also directs the Administrator of the Environmental Protection Agency (EPA) to enforce the reporting requirements promulgated by the CSB. *See* 42 U.S.C. 7412(r)(6)(O).

Although the CSB's enabling legislation was enacted in 1990, the CSB did not begin operations until 1998. Since 1998, the CSB has not promulgated an accidental release reporting requirement as envisioned in the CSB enabling legislation. With the development of the Internet and other new information sources, the CSB has maintained that it could learn of most serious chemical accidents from these sources along with reports of chemical releases required to be filed with the National Response Center for purposes of timely identification of incidents appropriate for CSB on-site investigations. The CSB has not attempted to systematically conduct national surveillance activities of chemical incidents or releases.

Recommendations To Implement Reporting Rule

In 2004, the Inspector General recommended that the CSB implement the statutory reporting requirement: ''The CSB needs to refine its mechanism for learning of chemical incidents, and it should publish a regulation describing how the CSB will receive the notifications it needs.'' (Department of Homeland Security, Office of Inspector General, A Report on the Continuing Development of the U.S. Chemical Safety and Hazard Investigation Board, OIG–04–04, Jan. 2004, at 14.) Recently, the Government Accountability Office (GAO) also recommended that the CSB fulfill its statutory obligation by issuing a reporting regulation. (U.S. Government Accountability Office, Chemical Safety Board: Improvements in Management and Oversight Are Needed, GAO–08–864R, Aug. 22, 2008, at 11.)

The CSB recognizes that a reporting regulation is clearly required by the statute. Based on these audit recommendations and its own more recent experience, the CSB has concluded that a reporting rule would also be helpful to the CSB in improving the timeliness, completeness, and accuracy of the information it now collects on chemical incidents. For example, the CSB recognizes that there is sometimes a delay between some chemical incidents and media coverage and that a rule could potentially improve the CSB's ability to learn of certain incidents in a timelier manner before an accident site is disturbed or evidence is lost. The CSB also recognizes that a requirement to report certain information on chemical incidents, in addition to fulfilling its statutory mandate, could help the agency develop better information on chemical incidents occurring in the United States, and help both the agency and other organizations to identify issues and trends, and thereby further the cause of preventing chemical incidents. For these reasons, the CSB now intends to promulgate and implement a reporting rule as required by its enabling legislation after collecting input from all interested parties.

Important Issues

Some of the more important issues for the CSB's consideration and for public comment are as follows:

Purpose of Rule—Incident Notification and Collection of Incident Data

In the past, the CSB has argued that the sole purpose of a reporting regulation is to inform the CSB of major incidents warranting the deployment of investigators. (GAO–08–864R, at 70.) GAO has suggested that the value of a reporting rule is broader than ensuring that the CSB receives mere notification of incidents, stating that a rule would ''better inform the agency of important details about accidents that it may not receive from current sources.'' (GAO–08–864R, at 11.) GAO also suggested that the information obtained through a reporting rule could improve the CSB's ability to ''target its resources, identify trends and patterns in chemical incidents, and prevent future similar accidents.'' (GAO–08–864R, at 7.) These goals are typically those of a comprehensive surveillance program. Due to this focus on surveillance goals and more accurate incident data (as opposed to mere notification), it is important to describe how the CSB has previously collected such information and what it hopes to achieve in promulgating a rule.

The CSB described the process it uses for receiving notice of and determining whether to investigate chemical incidents in a 2006 report to Congress:

> The CSB has a designated chemical incident screener on duty 24 hours a day, seven days a week. A combination of notification services including the National Response Center, the National Transportation Safety Board [NTSB] Communications Center, and various news outlets, serve as sources of information to identify chemical incidents as they occur. The incidents in the database do not comprise an exhaustive list of all chemical incidents that occurred in the country on any given day. Incidents logged in the CSB incident-screening database are scored using a formula that measures several factors relevant to its potential selection for investigation. These factors include: Injuries/fatalities; public evacuation; ecosystem damage; potential for consequences; learning potential; property losses; public concern; history of the company.
>
> The factors assessing public and worker injuries and fatalities are given greater weight in the scoring system. Once scored, the factors are averaged, and based on the numerical score the incident is then assigned a priority level * * *. Deployment decisions are made in accordance with the CSB incident selection protocol. The decision to deploy a team of investigators to the site of a chemical incident often needs to be made before an incident can be scored with complete certainty. Consequently, incidents may be re-scored if new information is obtained on site.

(Chemical Safety and Hazard Investigation Board, Report on Chemical Incident Screening Database, Feb. 2006, at 3.)

With some refinements, this is essentially the process that the CSB uses today for learning of incidents and making investigation deployment decisions. The agency has discontinued its contract with the NTSB Communications Center, but continues to rely on reports from the National Response Center and from media sources. As the agency has added news services and as internet search engines have become more and more powerful, the number of incidents that are logged into the CSB's system has increased substantially, from about 600 per year when CSB began keeping a somewhat rudimentary database of ''screened'' incidents, to over 1,000 incidents per year currently. The sole source of information for the majority (approximately two-thirds) of screened incidents is media reports. (OIG–04–04, at 14 n. 37; M.R. Gomez, et al., The CSB Incident Screening Database: Description, Summary Statistics and Uses, J. Hazard. Mater. 159 (2008) 119–129.) Reports of most serious incidents (which are the ones most likely to involve deploying investigators) are

very often received from media sources first, even if the incident is also reported to the National Response Center and the report forwarded to the CSB later. This is significant, because the CSB seeks to make deployment decisions as quickly as possible so that investigators can arrive at the accident site within the first 24 to 48 hours after the time of the initiating event, in order to begin the investigation while the evidence is less likely to be disturbed and the witnesses' testimony is fresh. Thus, the CSB believes that a reporting rule would complement, rather than replace, the existing mechanisms by which the CSB typically learns of chemical incidents.

The CSB's collection of incident information thus was an outgrowth of the CSB's effort to make its incident selection process more transparent and predictable, and was not done with the intention of establishing a formal national surveillance system or creating a valid and reliable chemical incident database. However, GAO noted that the CSB has sometimes used the database, in testimony to Congress and in other contexts, to give a sense of the scope of serious chemical incidents. GAO further noted the problems of accuracy and completeness with the information on incidents in the database:

> We found that CSB lacks a long-term strategy to improve quality controls, and the data [in the database] remain somewhat inaccurate and incomplete. For example, when we analyzed a subset of accidents in the database involving fatalities and injuries, we found at least five accidents (about 6 percent of the cases reviewed) where fatalities were not correctly recorded in the database. We also found seven accidents (about 4 percent of the cases reviewed) where data on injuries were missing as a result of incomplete data entry. Moreover, CSB does not have procedures to ensure that data has been entered accurately. The lack of data-reporting regulations and these data quality problems limit CSB's ability to target its resources, identify trends and patterns in chemical accidents, and prevent future similar accidents.

(GAO–08–864R, at 7.)

The CSB has already taken steps to improve the accuracy of information on chemical incidents that it collects, including software changes and supervisory controls on data entry. The CSB foresees that a reporting rule will further its current efforts to improve data collection and would permit more accurate surveillance of chemical incidents.

Coordination With Other Chemical Incident Reporting Requirements

The CSB has previously noted that EPA, the Occupational Safety and Health Administration (OSHA), and the Agency for Toxic Substances and Disease Registry (ATSDR) all collect chemical incident information for various purposes. (GAO–08–864R, at 70.) In drafting a new requirement, the CSB will seek to avoid unnecessary duplication with various other reporting requirements.

Specifically, the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) requires that companies immediately report to the National Response Center releases over the reportable quantities of any of several hundred listed hazardous substances and other substances with hazardous characteristics. *See* 42 U.S.C. 9603; *see also* 40 CFR 302.4 (table of hazardous substances reportable under this section of CERCLA). The Emergency Planning and Community Right to Know Act (EPCRA) requires that companies report hazardous chemical releases potentially affecting the public to the Local Emergency Response and State Emergency Response office. For certain companies, the EPCRA also requires annual reports of releases of listed toxic chemicals during the previous 12 months. *See* 42 U.S.C. 11004, 11023. Facilities that are subject to the Risk Management Program (RMP) rule must report annually on any accidental releases that are reportable under that rule. *See* 42 U.S.C. 7412(r)(7)(B)(i)–(ii) (mandating the Risk Management Program and regulatory scheme); *see also* 40 CFR part 68 (the Chemical Accident Prevention Provisions (CAPPs) that include the RMP rules); 40 CFR 68.130 (listing the reportable substances under the RMP). Workplace fatalities, including those caused by accidental chemical releases, must be reported within eight hours to OSHA. *See* 29 CFR 1904.39.

ATSDR has collected information about chemical incidents from more than a dozen states for several years—although the data have some limitations, such as the exclusion of incidents related to petroleum products. The program is called the Hazardous Substances Emergency Events Surveillance (HSEES), and information about its history can be found at *http://www.atsdr.cdc.gov/HS/HSEES/index.html.* The ATSDR has expressed interest in building upon its current efforts. Its Web page also contains information about this effort.

Threshold for Report

The CSB's current resources limit the number of detailed investigations it can conduct each year, and the CSB believes that an initial notification reporting rule should likely focus on selected, high-consequences events (for example, incidents that result in death, serious injuries requiring in-patient hospitalization, large public evacuations, very substantial property damage, or acute environmental impact). Such an approach to notification for high consequence events and reporting for others would reduce the reporting burden on industry and the volume of information to be collected and managed. Based on available information, the CSB believes there are likely to be at most a few hundred incidents throughout the country each year that would require reporting to the CSB if the threshold is set at a level to capture serious consequences or substantial near miss situations. Of course, limiting the threshold for reporting an incident would not limit the CSB's investigatory jurisdiction.

Statutory Definitions

The CSB notes that existing chemical release reporting requirements are generally triggered by a list of chemicals and a threshold amount for each chemical. On the other hand, the CSB may investigate any incident resulting in serious consequences (fatality, serious injury, or substantial property damage) that involves an emission into the ambient air of any RMP-listed hazardous substance or other extremely hazardous substance, no matter what quantity is present or released. *See* 42 U.S.C. 7412(r)(2)(A), 7412(r)(6)(C)(i). The CSB has not defined such terms as ''ambient air,'' ''extremely hazardous substance,'' ''serious'' injury, or ''substantial'' property damage, but would likely need to do so in promulgating a rule.

Collection of Initial Report

A rule could require that a report be made directly to the CSB through an electronic form on the CSB Web site, or to the National Response Center, as provided by the CSB's enabling statute. With respect to the latter option, the legislative history of the CSB statute further explains:

> The regulations of the Board for accident reporting may provide that any person directed to make a report contact the National Response Center rather than the Board directly. This will assure coordination of such reports with responsibilities under the Comprehensive Environmental Response, Compensation and Liability Act, the Clean Water Act and the Hazardous Materials Transportation Act. If the National Response Center is to be the initial point of contact under such rules, then the Board shall assure that officials at the National Response Center promptly notify the Board or its officers

whenever an accidental release requiring an investigation has occurred.

S. Rep. No. 101–228, at 236 (1989), *reprinted in* 1990 U.S.C.C.A.N. 3385, 3620.

Among other considerations, cost is a concern with using the National Response Center as a receiving point for reports to the CSB. The CSB received a preliminary estimate from the National Response Center that establishing and operating a dedicated CSB reporting line (toll-free telephone number) would cost $450,000 per year.

Compliance Education

Because the chemical accidents that the CSB can investigate may occur at a wide range of companies and operations but are relatively infrequent events, a rule could apply to many parties which could potentially, but likely will not, experience a serious chemical incident at some point. Most of those parties would have no direct contact with the CSB unless a serious incident occurred. Thus, the CSB must also consider how best to educate potentially affected parties about compliance with any final rule.

Approaches

The CSB has identified four general approaches for implementing the statutory requirement, as described below, but is open to additional suggestions:

(1) A comprehensive approach would require the reporting of information on *all* accidental releases subject to the CSB's investigatory jurisdiction. The CSB is concerned that this approach might be unnecessarily broad in scope, duplicative of other federal efforts concerning chemical incident surveillance, and may not be necessary for the CSB to learn of most significant incidents that would justify an on-site investigation.

(2) A targeted approach would require reporting of basic information (e.g., location, date, and time of incident; chemical involved; number of injuries) for incidents that met significant consequence thresholds (incidents that result in death, serious injuries requiring in-patient hospitalization, large public evacuations, very substantial property damage, or acute environmental impact). Such an approach would be consistent with that taken by several other federal agencies, whose accident reporting rules incorporate the same or similar consequence-based criteria. Examples of this type of rule include the NTSB railroad accident notification rule (49 CFR 840.3); Department of Transportation rules on notification of hazardous materials accidents (49 CFR 171.15), gas pipeline accidents (49 CFR 191.5), and hazardous liquid pipeline accidents (49 CFR 195.50); and the OSHA work-related accident reporting rule (29 CFR 1904.39).

A related approach would require reports from certain high risk facilities no matter what the specific consequences of the incident. For example, the EPA Office of Inspector General recently issued a report which identified three different approaches to identifying high risk facilities covered by the RMP rule. (U.S. Environmental Protection Agency, Office of Inspector General, EPA Can Improve Implementation of the Risk Management Program for Airborne Chemical Releases, 09–P–0092, Feb. 10, 2009, at 17). Similar criteria could be employed in a rule to require that certain facilities promptly report incidents to the CSB.

Based on such targeted reports, the CSB could determine whether the owner/operator would be required to submit additional, detailed information to the CSB for evaluation and further investigation.

(3) A third approach would require owners or operators to report to the CSB more extensive information on chemical incidents in their workplace when notified by the CSB. The agency would continue to rely primarily on existing sources for initially learning of chemical incidents, but would follow up on a subset of the incidents (e.g., those with the most serious consequences, based on initial reports, and a sample of all others) to gather additional information through a questionnaire or on-line form that the reporting party would be required by the rule to complete and submit to the CSB. This approach would be primarily aimed at addressing the data quality problems of accuracy and completeness of information on incidents in the CSB's incident database. It would also allow the CSB to collect more complete and in-depth information on incidents than is generally available in the minutes and hours immediately after an incident. For example, the information required could go beyond the location, date, and time of incident, and also include information on the materials involved, the nature of the incident (e.g., chemical reaction, untested presence of flammables, etc.), and type of operation, as well as more complete information on consequences. This approach would formalize what the CSB screening personnel currently do, i.e., follow up (primarily by telephone) with companies and responders on approximately 60 incidents each year to gather detailed information on the consequences, as well as the processes and chemicals involved, beyond what is contained in media or NRC reports.

(4) A fourth approach to a reporting requirement could be based upon the presence or release of specified chemicals and specified threshold amounts. However, CSB investigations have shown that serious consequences may and do result from the release of relatively small amounts of chemicals, and from chemicals that are not likely to be listed.

Information Sought

The CSB seeks comments and information in advance of drafting a proposed regulation to implement the accidental release reporting requirement. In addition to comments addressing the issues and approaches described above, the CSB is also interested in comments that address the following specific questions:

- Are there Federal, State, or local rules or programs for reporting chemical or other types of incidents that would be an appropriate model for the CSB to consider in developing a reporting requirement?
- Should an initial report be made to the CSB or the National Response Center?
- What information should be reported to the CSB?
- How soon after an accident should reporting occur?
- Should the rule be designed with distinct requirements for rapid notification of high-consequence incidents and more systematic (and slower) notification of other incidents?
- What specific factors (such as lists of chemicals or specific consequences) should the CSB consider in drafting a proposed rule?
- How should the CSB gather information on incidents (such as combustible dust explosions and reactive chemical incidents) that may not involve specifically listed hazardous substances?
- How might this reporting requirement best be tailored to avoid duplication with existing sources of information on chemical incidents, including federal, state, or local reporting requirements?
- How might the CSB best target compliance education efforts?

Electronic Submission of Comments

You may submit comments by e-mail to: *anpr@csb.gov.* Please include CSB–09–01 in the subject line of the message. Comments may be submitted in the body of the e-mail message or as an attached PDF, MS Word, or plain text

ASCII file. Files must be virus-free and unencrypted. Please ensure that the comments themselves, whether in the body of the e-mail or attached as a file, include docket number CSB–09–01 and your full name and address.

Inspection of Comments

All comments received by the CSB will be available to the public upon request. To obtain copies of the comments or arrange an appointment to inspect the comments at CSB headquarters (2175 K Street, NW., Suite 650, Washington, DC 20037) during normal business hours, please call the CSB at (202) 261–7600.

Dated: June 18, 2009.

John S. Bresland,

Chairman, Chemical Safety and Hazard Investigation Board.

[FR Doc. E9–14835 Filed 6–24–09; 8:45 am]

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Notices

Federal Register

Vol. 74, No. 121

Thursday, June 25, 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

Rural Housing Service

Rural Business-Cooperative Service

Rural Utilities Service

Notice of Funds Availability Under the Consolidated Security, Disaster Assistance, and Continuing Appropriations Act, 2009

AGENCIES: Rural Housing Service, Rural Business-Cooperative Service, and Rural Utilities Service, USDA.

ACTION: Notice.

SUMMARY: The Rural Housing Service (RHS), Rural Business-Cooperative Service (RBS), and Rural Utilities Service (RUS) are administered through USDA Rural Development (RD). This Notice announces the availability of disaster assistance pursuant to Chapter 1 of Title I of Division B of the Consolidated Security, Disaster Assistance, and Continuing Appropriations Act 2009 (Pub. L. 110–329) *(September 30, 2008).*

DATES: Unless otherwise specified in this Notice, applications will be accepted on a rolling basis.

ADDRESSES: Entities wishing to apply for assistance, or that are in need of further information, should contact the USDA Rural Development State Office in the state where the project is located. A list of the USDA Rural Development State Offices addresses and telephone numbers are as follows:

Note: Telephone numbers are not toll-free.

Alabama

Sterling Centre, Suite 601, 4121 Carmichael Road, Montgomery, AL 36106–3683, (334) 279–3400/TDD (334) 279–3495.

Alaska

USDA Rural Development State Office, 800 West Evergreen, Suite 201, Palmer, AK 99645–6539, (907) 761–7705/TDD (907) 761–8905.

Arizona

USDA Rural Development State Office, 230 N. 1st Ave., Suite 206, Phoenix, AZ 85003, (602) 280–8701/TDD (602) 280–8705.

Arkansas

USDA Rural Development State Office, 700 West Capitol Avenue, Room 3416, Little Rock, AR 72201–3225, (501) 301–3200/TDD (501) 301–3279.

California

USDA Rural Development State Office, 430 G Street, # 4169, Davis, CA 95616–4169, (530) 792–5800/TDD (530) 792–5848.

Colorado

USDA Rural Development State Office, 655 Parfet Street, Room E–100, Lakewood, CO 80215, (720) 544–2903/TDD (720) 544–2976.

Connecticut

USDA Rural Development State Office, 451 West Street, Suite 2, Amherst, MA 01002–2999, (413) 253–4300/TDD (413) 253–4590.

Delaware-Maryland

USDA Rural Development State Office, 1221 College Park Drive, Suite 200, Dover, DE 19904, (302) 857–3580/TDD (302) 857–3585.

Florida

USDA Rural Development State Office, 4440 NW 25th Place, P.O. Box 147010, Gainesville, FL 32614–7010, (352) 338–3400/TDD (352) 338–3499.

Georgia

USDA Rural Development State Office, Stephens Federal Building, 355 E. Hancock Avenue, Athens, GA 30601–2768, (706) 546–2162/TDD (706) 546–2034.

Hawaii

USDA Rural Development State Office, Federal Building, Room 311, 154 Waianuenue Avenue, Hilo, HI 96720, (808) 933–8380/TDD (808) 933–8321.

Idaho

USDA Rural Development State Office, 9173 West Barnes Dr., Suite A1, Boise, ID 83709, (208) 378–5600/TDD (208) 378–5644.

Illinois

USDA Rural Development State Office, 2118 West Park Court, Suite A, Champaign, IL 61821, (217) 403–6200/TDD (217) 403–6240.

Indiana

USDA Rural Development State Office, 5975 Lakeside Boulevard, Indianapolis, IN 46278, (317) 290–3100/TDD (317) 290–3343.

Iowa

USDA Rural Development State Office, Federal Building, Room 873, 210 Walnut Street, Des Moines, IA 50309, (515) 284–4663/TDD (515) 284–4858.

Kansas

USDA Rural Development State Office, 1303 S.W. First American Place, Suite 100, Topeka, KS 66604–4040, (785) 271–2700/TDD (785) 271–2767.

Kentucky

USDA Rural Development State Office, 771 Corporate Drive, Suite 200, Lexington, KY 40503, (859) 224–7300/TDD (859) 224–7422.

Louisiana

USDA Rural Development State Office, 3727 Government Street, Alexandria, LA 71302, (318) 473–7921/TDD (318) 473–7655.

Maine

USDA Rural Development State Office, 967 Illinois Avenue, Suite 4, P.O. Box 405, Bangor, ME 04402–0405, (207) 990–9160/TDD (207) 942–7331.

Massachusetts

USDA Rural Development State Office, 451 West Street, Suite 2, Amherst, MA 01002–2999, (413) 253–4300/TDD (413) 253–4590.

Michigan

USDA Rural Development State Office, 3001 Coolidge Road, Suite 200, East Lansing, MI 48823, (517) 324–5190/TDD (517) 324–5169.

Minnesota

USDA Rural Development State Office, 375 Jackson Street, Suite 410, St. Paul, MN 55101–1853, (651) 602–7800/TDD (651) 602–3799.

Mississippi

USDA Rural Development State Office, Federal Building, Suite 831, 100 W. Capitol Street, Jackson, MS 39269, (601) 965–4316/TDD (601) 965–5850.

Missouri

USDA Rural Development State Office, 601 Business Loop 70 West, Parkade Center, Suite 235, Columbia, MO 65203, (573) 876–0976/TDD (573) 876–9480.

Montana

USDA Rural Development State Office, 900 Technology Boulevard, Suite B, P.O. Box 850, Bozeman, MT 59771, (406) 585–2580/TDD (406) 585–2562.

Nebraska

USDA Rural Development State Office, Federal Building, Room 152, 100 Centennial Mall North, Lincoln, NE 68508, (402) 437–5551/TDD (402) 437–5093.

Nevada

USDA Rural Development State Office, 1390 South Curry Street, Carson City, NV 89703–5146, (775) 887–1222/TDD (775) 885–0633.

New Hampshire

USDA Rural Development State Office, City Center, 3rd Floor, 89 Main Street, Montpelier, VT 05602, (802) 828–6000/TDD (802) 223–6365.

New Jersey

USDA Rural Development State Office, 8000 Midlantic Drive, 5th Floor North, Suite 500, Mt. Laurel, NJ 08054, (856) 787–7700/TDD (856) 787–7784.

New Mexico

USDA Rural Development State Office, 6200 Jefferson Street, NE, Room 255, Albuquerque, NM 87109, (505) 761–4950/TDD (505) 761–4938.

New York

USDA Rural Development State Office, The Galleries of Syracuse, 441 South Salina Street, Suite 357, Syracuse, NY 13202–2541, (315) 477–6400/TDD (315) 477–6447.

North Carolina

USDA Rural Development State Office, 4405 Bland Road, Suite 260, Raleigh, NC 27609, (919) 873–2000/TDD (919) 873–2003.

North Dakota

USDA Rural Development State Office, Federal Building, Room 208, 220 East Rosser, P.O. Box 1737, Bismarck, ND 58502–1737, (701) 530–2037/TDD (701) 530–2113.

Ohio

USDA Rural Development State Office, Federal Building, Room 507, 200 North High Street, Columbus, OH 43215–2418, (614) 255–2400/TDD (614) 255–2554.

Oklahoma

USDA Rural Development State Office, 100 USDA, Suite 108, Stillwater, OK 74074–2654, (405) 742–1000/TDD (405) 742–1007.

Oregon

USDA Rural Development State Office, 1201 NE Lloyd Blvd., Suite 801, Portland, OR 97232, (503) 414–3300/TDD (503) 414–3387.

Pennsylvania

USDA Rural Development State Office, One Credit Union Place, Suite 330, Harrisburg, PA 17110–2996, (717) 237–2299/TDD (717) 237–2261.

Puerto Rico

USDA Rural Development State Office, IBM Building, Suite 601, 654 Munos Rivera Avenue, San Juan, PR 00918–6106, (787) 766–5095/TDD (787) 766–5332.

Rhode Island

USDA Rural Development State Office, 451 West Street, Suite 2, Amherst, MA 01002–2999, (413) 253–4300/TDD (413) 253–4590.

South Carolina

USDA Rural Development State Office, Strom Thurmond Federal Building, 1835 Assembly Street, Room 1007, Columbia, SC 29201, (803) 765–5163/TDD (803) 765–5697.

South Dakota

USDA Rural Development State Office, Federal Building, Room 210, 200 Fourth Street, SW., Huron, SD 57350, (605) 352–1100/TDD (605) 352–1147.

Tennessee

USDA Rural Development State Office, 3322 West End Avenue, Suite 300, Nashville, TN 37203–1084, (615) 783–1300.

Texas

USDA Rural Development State Office, Federal Building, Suite 102, 101 South Main, Temple, TX 76501, (254) 742–9700/TDD (254) 742–9712.

Utah

USDA Rural Development State Office, Wallace F. Bennett Federal Building, 125 South State Street, Room 4311, Salt Lake City, UT 84138, (801) 524–4320/TDD (801) 524–3309.

Vermont

USDA Rural Development State Office, City Center, 3rd Floor, 89 Main Street, Montpelier, VT 05602, (802) 828–6000/TDD (802) 223–6365.

Virginia

USDA Rural Development State Office, 1606 Santa Rosa Road, Suite 238, Richmond, VA 23229–5014, (804) 287–1550/TDD (804) 287–1753.

Washington

USDA Rural Development State Office, 1835 Black Lake Boulevard SW., Suite B, Olympia, WA 98512–5715, (360) 704–7740/TDD (360) 704–7760.

Virgin Islands

USDA Rural Development State Office, 4440 NW 25th Place, P.O. Box 147010, Gainesville, FL 32614–7010, (352) 338–3400/TDD (352) 338–3499.

West Virginia

USDA Rural Development State Office, 75 High Street, Room 320, Morgantown, WV 26505–7500, (304) 284–4860/TDD (304) 284–4836.

Wisconsin

USDA Rural Development State Office, 4949 Kirschling Court, Stevens Point, WI 54481, (715) 345–7600/TDD (715) 345–7614.

Wyoming

USDA Rural Development State Office, 100 East B, Federal Building, Room 1005, P.O. Box 11005, Casper, WY 82602–5006, (307) 233–6700/TDD (307) 233–6733.

FOR FURTHER INFORMATION CONTACT: For information and application assistance contact the appropriate Rural Development State Office listed in the **ADDRESSES** section of this Notice.

For information regarding Housing and Community Facilities Programs, contact: Community Facilities, Anita Outen, Loan Specialist, at 202–720–1497, or Susan Woolard, Loan Specialist, at 202–720–1506; Multi-Family Housing Programs, Henry Searcy, Financial and Loan Specialist, at 202–720–1753; Single Family program, Myron Wooden, Loan Specialist, at 202–720–4780.

For further information regarding Business Programs, contact: Fred Kieferle, Business and Industry (B&I) Guaranteed Loan Program, at 202–720–7818, e-mail: *fred.kieferle@wdc.usda.gov*, Cindy Mason, Rural Business Enterprise Grant (RBEG), at 202–690–1433, e-mail: *cindy.mason@wdc.usda.gov.*

For information regarding Water and Environmental Programs' Direct Loan,

Guaranteed Loan, and Grant programs, contact: Gayle Auman, Loan Specialist, at 334–279–3620, e-mail: *gayle.auman@wdc.usda.gov.*

SUPPLEMENTARY INFORMATION:

Background: The Rural Development Mission Area agencies (RHS, RUS, and RBS of the United States Department of Agriculture) provide a wide variety of grant, loan, and loan guarantee assistance to rural residents, rural communities, and rural utility systems. The eligibility criteria for each of the programs differ widely.

Paperwork Reduction Act: In accordance with the Paperwork Reduction Act of 1995, the information collection requirements contained in this Notice are approved by the Office of Management and Budget (OMB) under OMB Control Numbers 0575–0172, 0575–0173, 0570–0174, 0575–0189, 0570–0017, 0570–0022, and 0570–0121.

Application Procedure: Unless otherwise specified in this Notice, the application procedure for assistance under this Notice is the same as the regular application procedure for the particular program for which financial assistance is requested.

I. Disaster Assistance Funds

A. Affected Programs

The following programs are subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials, pursuant to 7 CFR 3015.302, as a covered program. These programs or activities are listed in the Catalog of Federal Domestic Assistance (CFDA) under Numbers:

10.438 Section 538 Guaranteed Multi-family Housing Loans
10.447 Multi-family Revitalization
10.448 Rural Housing Voucher Program
10.766 Community Facilities Loans and Grants
10.410 Very Low to Moderate Income Housing Loans
10.768 Business and Industry
10.769 Rural Business Enterprise Grants
10.760 Water and Waste Direct Loans

B. Description of Assistance

Chapter 1 of Title I of Division B of the Consolidated Security, Disaster Assistance, and Continuing Appropriations Act, 2009, (the ''Act'') Public Law 110–329 enables USDA Rural Development to provide: (1) $150 million for the cost of assistance to areas affected by hurricanes, floods, and natural disasters occurring in calendar year 2008 that have been declared a major disaster by the President under Title IV of the Robert T. Stafford Disaster Relief and Emergency Assistance Act of 1974, 42 U.S.C. 5121, *et seq.,* and (2) $38 million for single and multi-family housing assistance to areas affected by hurricanes Katrina and Rita. Pursuant to section 10101(c) of the Act, the Secretary of Agriculture may waive any limits on population, income, or cost-sharing otherwise applicable to a project or activity. To the extent the Secretary has authorized such waiver(s) with respect to funds for a program covered by this NOFA, such waiver is indicated in connection with each program area of this NOFA.

C. Designated Disaster Area

For the purposes of this Notice, the designated disaster area shall be those areas affected by hurricanes, floods, and other natural disasters occurring during calendar year 2008 for which a disaster was declared by the President under Title IV of the Robert T. Stafford Disaster Relief and Emergency Assistance Act of 1974, 42 U.S.C. 5121, *et seq.* (Stafford Act) and areas affected by hurricanes Katrina and Rita.

Projects located in the identified counties on the Federal Emergency Management Agency (FEMA) map for these disasters will be eligible for funding. The FEMA Web site, *http://www.fema.gov,* lists Major and Emergency Disaster Declarations by year and by State. All of these disaster areas were declared by the President or the Secretary of Agriculture, but only Major Disaster Declarations (*i.e.,* those declared by the President) are eligible for the funds covered by this NOFA. Individual and public assistance may be provided in eligible areas.

1. Community Facilities (CF) Programs

USDA Rural Development will provide CF Direct Loan funds, CF Guaranteed Loan funds and CF Grant funds for essential community facilities in rural areas affected by hurricanes, floods, and other natural disasters which occurred during calendar year 2008 as follows:

CF Direct Loan Funds: $169,580,420
CF Guaranteed Loan Funds: $157,467,532
CF Grant Funds: $24,250,000

The CF Guaranteed and Direct Loan and Grant Programs are designed to finance and facilitate the development of essential community facilities serving rural areas. These facilities include, but are not limited to, hospitals, medical clinics, elderly care facilities, police stations and vehicles, fire and rescue stations and vehicles, vocational and medical rehabilitation centers, and educational facilities. Funds under this Notice can be used to construct, enlarge, or improve community facilities for health, public safety, and education. This may include the purchase of equipment or furnishings required for a facility's operation.

Waiver. CF Grants can be made without regard to graduated funding or matching funds requirements. CF Grant funds can be used for up to 75 percent of the cost to develop the facility.

General Provisions. The Act enables the Secretary of Agriculture to make grants to recipients that may have challenges in making loan payments. Rural Development has determined that it will review and make awards under this NOFA as applications are received. Applications will be reviewed, approved, and obligated in the State Rural Development Office.

Eligibility Requirements. Public entities such as municipalities, counties, and special-purpose districts, as well as nonprofit corporations, including Faith-based and neighborhood organizations, and federally-recognized tribal governments in designated disaster areas with a population of 20,000 or less are eligible to apply.

Priority. Priority will be provided in accordance with established program priorities and performance measures. The applicant's financial statements will be analyzed by Rural Development staff to determine the percentage of guaranteed loan funds, direct loans, and grant funds required for project feasibility.

Applicable Statutory or Regulatory Authority. Consolidated Farm and Rural Development Act, Section 306 (7 U.S.C. 1926(a) (1) and (19)); and, to the extent not waived by this Notice, 7 CFR Part 3570, Subpart B, Community Facilities Grant Program, 7 CFR Part 3575, Subpart A, Community Facilities Guaranteed Loan Program; 7 CFR Part 1942, Subpart A, Community Facilities Direct Loan Program; and 7 CFR Part 1942, Subpart C, Fire and Rescue Loans.

2. Single Family Housing Programs

General. USDA Rural Development will provide SFH program funds in rural areas affected by hurricanes, floods, and other natural disasters occurring during calendar years 2008 and areas affected by hurricanes Katrina and Rita.

This Notice provides SFH disaster allocations for FY 2009. Allocation computations have been made in accordance with 7 CFR 1940.563 through 1940.568.

Disaster Act Authorization. The Disaster Act authorizes SFH to provide

grants, loans and loan guarantees to eligible applicants in rural areas affected by hurricanes, floods and other natural disasters occurring during 2008 for which the President has declared a major disaster under title IV of the Robert. T. Stafford Disaster Relief and Emergency Assistance Act of 1974 and areas affected by hurricanes Katrina and Rita.

Funding is available as follows:

Disaster Funds

(1) Section 502 SFH Direct Loans
Hurricanes Supplemental (Katrina/Rita): $116,025,531
2008 Disaster Emergency Supplemental: $433,035,714
(2) Section 504 Direct Housing Repair Loans
Section 504 Housing Repair Loans 2005 Hurricanes: $504,329
(3) Section 504 Grants
Section 504 Housing Repair Grants 2005 Hurricanes: $15,152,777
Section 504 Housing Repair Grants 2008 Disaster: $4,850,000
(4) Section 502 Guaranteed Loans (Nonsubsidized)
Section 502 Guaranteed Purchase 2005 Disaster Loans (Nonsubsidized)
Purchase—Amount Available for 2005 Disaster Allocation
Total Available—Purchase: $1,278,411,582
Less National Office General Reserve: $240,179,009
Allocation to the States: $1,038,232,573

General Reserve. The National Office will maintain a general reserve. These funds will be available to states that exhaust their allocations.

Section 502 Guaranteed Purchase 2008 Disaster Loans (Nonsubsidized)
Purchase—Amount Available for 2008 Disaster Allocation
Total Available—Purchase: $1,069,291,339
Less National Office General Reserve: $534,646,340
Allocation to the States: $534,644,999

Applicable Statutory or Regulatory Authority

- The Housing Act of 1949 as amended.
- RD Instruction 1980–D (Guaranteed).
- 7 CFR Part 3550 (Direct).
- 7 CFR 1940.563 through 1940.568

Further Information. All SFH programs are administered through field offices. For more information or to make application, please contact the Rural Development office servicing your area as listed in the **ADDRESSES** section of this Notice.

3. Multi-Family Housing (MFH) Program

MFH Program funding will be available to build or repair projects located in designated disaster areas or protect tenants in projects in designated disaster areas that leave the Section 515 program through prepayment or foreclosure. Initial MFH loan and grant disaster funding levels for FY 2009 expressed as budget authority are as follows:

Section 515 Direct Loans: $747,911
MFH Revitalization (MPR)—Budget Authority: $5,820,000
Section 538 Guaranteed MFH: $12,372,449
Rural Housing Vouchers: $1,940,000

Budget authority funding levels may be adjusted depending on demand for funding in each of the MFH program areas. All funds will be held in the National Office and will be distributed either using the application selection processes under applicable FY 2009 funding notices, or through the Administrator's direction. The applicable notices include the Notice of Funding Availability for the Section 515 Rural Rental Housing Program for New Construction in Fiscal Year 2009, published on April 29, 2009, the Notice of Solicitation of Applications: Section 514, 515 and 516 Multi-Family Housing Revitalization Demonstration Program (MPR) for Fiscal Year 2009 [74 FR 19505], published on April 29, 2009 [74 FR 19513]; the Notice of Funding Availability: Rural Development Voucher Program, published on April 29, 2009 [74 FR 19510] and the Notice for the Request for Proposals for Loan Guarantees under the Section 538 Guaranteed Rural Rental Housing Program (GRHHP) for Fiscal Year 2009, published on January 21, 2009 [74 FR 3551].

A complete description of each of the Multi-Family Housing Programs, which includes general provisions, assistance available, eligibility requirements, and selection criteria is available in the FY 2009 funding notices identified above.

Dates. Applications for MPR and Section 515 new construction are due by June 29, 2009.

Applicable Statutory or Regulatory Authority. Sections 514, 515, 516, and 538 multi-family housing programs are authorized by the Housing Act of 1949, as amended (42 U.S.C. Sec.1484, 1485, 1486, 1490p-2) and provide Rural Development with the authority to make loans for low-income multi-family housing and farm labor housing and related facilities. The Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2008 (Pub. L. 110–161), December 26, 2007, the Consolidated Security Disaster Assistance and Continuing Appropriations Act, 2009 (Pub. L. 110–329) (September 30, 2008). The Rural Development Voucher Program is authorized under Section 542 of the Housing Act of 1949, as amended (without regard to Section 542 (b)).

4. Business and Industry (B&I) Guaranteed Loan Program

USDA Rural Development will provide B&I Guaranteed Loan funds to assist businesses in rural areas affected by hurricanes, floods, and other natural disasters occurring during calendar year 2008 as follows:

B&I Guaranteed Loan Funds 2008 Disasters: $445,977,011

B&I Guaranteed Loan Program is to improve, develop, or finance business, industry, and employment and improve the economic and environmental climate in rural communities. This purpose is achieved by bolstering the existing private credit structure through the guarantee of quality loans which will provide lasting community benefits.

Eligibility Requirements. A borrower may be a cooperative organization, corporation, partnership, or other legal entity organized and operated on a profit or nonprofit basis; an Indian tribe on a Federal or State reservation or other federally recognized tribal group; a public body; or an individual. B&I loans are normally available in rural areas, which include all areas other than cities or towns of more than 50,000 people and the contiguous and adjacent urbanized area of such cities or towns.

Loan purposes must be consistent with the general purpose contained in the regulation, and include business acquisition; the purchase and/or development of land, buildings, leasehold improvements; purchase of machinery, equipment; supplies, and inventory; and debt refinancing.

The total amount of Agency loans to one borrower generally must not exceed $25 million. Loans up to $40 million may be authorized for rural cooperative organizations that process value-added agricultural commodities. The interest rate for the guaranteed loan will be negotiated between the lender and the applicant. Collateral must have documented value sufficient to protect the interest of the lender and the Agency.

Priority. Funds are available on a first-come-first-served basis.

Applicable Statutory or Regulatory Authority.

• Consolidated Farm and Rural Development Act, Section 310B (7 U.S.C. 1932)
• 7 CFR Part 4279, Subparts A and B
• Part 4287, Subpart B. Business and Industry Guaranteed Loan Program.

5. Rural Business Enterprise Grant (RBEG) Program

USDA Rural Development will provide disaster designated RBEG grant funds for rural disaster recovery projects that finance and facilitate development of small and emerging rural businesses help fund distance learning networks, and help fund employment related adult education programs in rural areas affected by hurricanes, floods, and other natural disasters occurring during calendar year 2008 as follow:

RBEG 2008 disaster funds: $4,850,000

To assist with business development, RBEGs may fund a broad array of activities, and may include acquisition, development, and/or renovation of real estate; purchase of machinery and equipment; capitalization of revolving loan funds; training; and technical assistance. Eligible activities are delineated in 7 CFR 1942–G.

Eligibility Requirements. Applicants eligible for RBEG funds are public bodies and private non-profit corporations serving rural areas. States, counties, cities, townships, and incorporated towns and villages, boroughs, authorities, districts, including Faith-based and neighborhood organizations and private non-profit corporations, and Indian tribes on Federal and state reservations which will serve rural areas. ''Rural area'' for this program is defined as all areas other than cities or towns of more than 50,000 people and the contiguous and adjacent urbanized area of such cities or towns. Applications will not be considered for funding if they do not provide sufficient information to determine eligibility or are missing required elements.

Priority. There is no maximum level of grant funding, but smaller projects are given higher priority.

Applicable Statutory or Regulatory Authority.
• Consolidated Farm and Rural Development Act, Sec. 310B(c) (7 U.S.C. 1932(c)(2))
• 7 CFR Part 1942, Subpart G, Rural Business Enterprise Grant Program

6. Water and Waste Loans and Grants

General. USDA Rural Development's Water and Environmental Programs (WEP) provide a wide variety of grant, loan and loan guarantee assistance to rural residents, communities and utility systems. Details on eligible applicants and projects may be found in the relevant regulations listed in the ''Applicable Statutory and Regulatory Authority'' section below.

Disaster Act Authorization. The Disaster Act authorizes WEP to provide grants and loans to eligible applicants in rural areas affected by hurricanes, floods and other natural disasters occurring during 2008 for which the President has declared a major disaster under Title IV of the Robert. T. Stafford Disaster Relief and Emergency Assistance Act of 1974. Funding is available as follows:

Water and Waste Funds
2008 Disasters loan funds: $49,589,603
2008 Disasters grant funds: $15,000,000
Emergency Community Water Assistance Grants: $2,000,000

Waiver(s) Pursuant to Section 10101(c) of the Disaster Act. None.

Applicable Statutory or Regulatory Authority.
• Consolidated Farm and Rural Development Act, Section 306 (7 U.S.C. 1926(a)(1), (2), and (24)) and Section 306A (7 U.S.C. 1926a).
• 7 CFR Part 1778, Emergency and Imminent Community Water Assistance Grants.
• 7 CFR 1779, Water and Waste Disposal Programs Guaranteed Loans. (An Interim Rule, 7 CFR 5001, has been published in the **Federal Register**, but is not effective as of the date of this Notice).
• 7 CFR 1780, Water and Waste Loans and Grants.

Further Information. Information for the Water and Environmental Programs' Direct Loan and Grant programs may be obtained by contacting your USDA Rural Development State Office as listed in the **ADDRESSES** section of this Notice.

Civil Rights

Programs referenced in this Notice are subject to applicable Civil Rights Laws. These laws include the Equal Credit Opportunity Act, Title VI of the Civil Rights Act of 1964, Title VIII of the Civil Rights Act of 1968, as amended in 1988, Section 504 of the Rehabilitation Act of 1973, and the Age Discrimination Act of 1975.

Non-Discrimination Statement

The U.S. Department of Agriculture (USDA) prohibits discrimination in all its programs and activities on the basis of race, color, national origin, age, disability, and where applicable, sex, marital status, familial status, parental status, religion, sexual orientation, genetic information, political beliefs, reprisal, or because all or part of an individual's income is derived from any public assistance program. (Not all prohibited bases apply to all programs.) Persons with disabilities who require alternative means for communication of program information (Braille, large print, audiotape, etc.) should contact USDA's TARGET Center at (202) 720–2600 (voice and TDD). To file a complaint of discrimination, write to USDA, Director, Office of Civil Rights, 1400 Independence Avenue, SW., Washington, DC 20250–9410, or call (800) 795–3272 (voice), or (202) 720–6382 (TDD). ''USDA is an equal opportunity provider, employer, and lender.''

Dated: May 29, 2009.

Dallas Tonsager,

Under Secretary.

[FR Doc. E9–14953 Filed 6–24–09; 8:45 am]
BILLING CODE 3410–XY–P

DEPARTMENT OF AGRICULTURE

Rural Business-Cooperative Service

Notice of Funding Availability (NOFA) for the Small, Socially-Disadvantaged Producer Grant Program in Fiscal Year 2009

AGENCY: Rural Business-Cooperative Service, USDA.

ACTION: Notice of Funding Availability.

SUMMARY: The Rural Business-Cooperative Service announces the availability of approximately $1.463 million in competitive grant funds for fiscal year (FY) 2009 for cooperatives or associations of cooperatives to assist small, socially-disadvantaged agricultural producers. USDA Rural Development Cooperative Programs hereby requests proposals from eligible cooperatives and associations of cooperatives for a competitively awarded grant to fund technical assistance to small, socially-disadvantaged agricultural producers in rural areas. The maximum award per grant is $175,000.

DATES: Applications for grants must be submitted on paper or electronically according to the following deadlines:

Paper copies must be postmarked and mailed, shipped, or sent overnight no later than August 10, 2009, to be eligible for FY 2009 grant funding. Late applications are not eligible for FY 2009 grant funding.

Electronic copies must be received by August 10, 2009, to be eligible for FY 2009 grant funding. Late applications will not be eligible for FY 2009 grant funding.

ADDRESSES: Application materials for the Small, Socially-Disadvantaged Producers Grant Program (SSDPG) may be obtained at *http://www.rurdev.usda.gov/rbs/coops/ssdg/ssdpg.htm* or by contacting the applicant's USDA Rural Development State Office. Contact information for State Offices can be found at *http://www.rurdev.usda.gov/rbs/coops/rcdg/Contacts.htm*.

Paper applications must be submitted to the USDA Rural Development State Office where the applicant is located. Electronic applications must be submitted through the *Grants.gov* Web site at *http://www.grants.gov,* following the instructions found on this Web site.

FOR FURTHER INFORMATION CONTACT: Visit the program Web site at *http://www.rurdev.usda.gov/rbs/coops/ssdpg/ssdpg.htm* for application assistance or contact a USDA Rural Development State Office. Applicants are strongly encouraged to contact their State Offices well in advance of the deadline to discuss their projects and ask any questions about the application process.

SUPPLEMENTARY INFORMATION:

Overview

Federal Agency: USDA Rural Business Cooperative Service.

Funding Opportunity Title: Small, Socially-Disadvantaged Producer Grant.

Announcement Type: Initial announcement.

Catalog of Federal Domestic Assistance Number: 10.771.

Dates: Application Deadline: Completed applications for grants may be submitted on paper or electronically according to the following deadlines:

Paper copies must be postmarked and mailed, shipped, or sent overnight no later than August 10, 2009, to be eligible for FY 2009 grant funding. Late applications are not eligible for FY 2009 grant funding.

Complete electronic copies must be received by August 10, 2009, to be eligible for FY 2009 grant funding. Late applications are not eligible for FY 2009 grant funding.

I. Funding Opportunity Description

This notice is issued pursuant to the Omnibus Appropriations Act Public Law No. 111–8 (March 11, 2009) that authorizes, not to exceed, $1.463 million for cooperatives or associations of cooperatives whose primary focus is to provide assistance to small, socially-disadvantaged producers and whose governing board and/or membership is comprised of at least 75 percent small, socially disadvantaged producers. The Secretary of Agriculture has delegated the program's administration to USDA Rural Development Cooperative Programs.

Formerly known as the Small, Minority Producer Grant Program, the primary objective of the SSDPG program is to provide technical assistance to small, socially-disadvantaged agricultural producers through eligible cooperatives and associations of cooperatives. Grants are awarded on a competitive basis. The maximum award amount per grant is $175,000.

Definitions

Agency—Rural Business-Cooperative Service, an agency of the United States Department of Agriculture (USDA) Rural Development or a successor agency.

Agricultural Commodity—An unprocessed product of farms, ranches, nurseries, and forests. Agricultural commodities include: livestock, poultry, and fish; fruits and vegetables; grains, such as wheat, barley, oats, rye, triticale, rice, corn, and sorghum; legumes, such as field beans and peas; animal feed and forage crops; seed crops; fiber crops, such as cotton; oil crops, such as safflower, sunflower, corn, and cottonseed; trees grown for lumber and wood products; nursery stock grown commercially; Christmas trees; ornamentals and cut flowers; and turf grown commercially for sod. Agricultural commodities do not include horses or animals raised as pets, such as cats, dogs, and ferrets.

Association of Cooperatives—An association of cooperatives whose primary focus is to provide assistance to small, socially-disadvantaged agricultural producers and where the governing board and/or membership is comprised of at least 75 percent socially-disadvantaged agricultural producers.

Conflict of Interest—A situation in which the ability of a person or entity to act impartially would be questionable due to competing professional or personal interests. An example of conflict of interest occurs when the grantee's employees, board of directors, including their immediate family, have a legal or personal financial interest in the recipients receiving the benefits or services of the grant.

Cooperative—A farmer- or rancher-owned and -controlled business, organized and chartered as a cooperative, from which benefits are derived and distributed equitably on the basis of use by each of the farmer or rancher owners whose primary focus is to provide assistance to small, socially-disadvantaged agricultural producers and where the governing board and/or membership is comprised of at least 75 percent socially-disadvantaged producers.

Cooperative Programs—The office within USDA Rural Development, and its successor organization, that administers programs authorized by the Cooperative Marketing Act of 1926 (7 U.S.C. 451 *et seq.*) and such other programs identified in USDA regulations.

Economic Development—The economic growth of an area as evidenced by increase in total income, employment opportunities, decreased out-migration of population, value of production, increased diversification of industry, higher labor force participation rates, increased duration of employment, higher wage levels, or gains in other measurements of economic activity, such as land values.

Feasibility Study—An analysis of the economic, market, technical, financial, and management feasibility of a proposed Project.

Operating Cost—The day-to-day expenses of running a business; for example: Utilities, rent, salaries, depreciation, product production costs, marketing and advertising, and other basic overhead items.

Project—Includes all activities to be funded by the Small Socially-Disadvantaged Agricultural Producer Grant and any matching funds.

Rural and Rural Area—Any area of a State—

(1) Not in a city or town that has a population of more than 50,000 inhabitants, according to the latest decennial census of the United States; and

(2) The contiguous and adjacent urbanized area,

(3) Urbanized areas that are rural in character as defined by U.S.C. 1991(a)(13), as amended by section 6018 of the Food, Conservation, and Energy Act of 2008, Public Law 110–246 (June 18, 2008).

(4) For the purposes of this definition, cities and towns are incorporated population centers with definite boundaries, local self-government, and legal powers set forth in a charter granted by the State. Notwithstanding any other provision of this paragraph, within the areas of the County of Honolulu, Hawaii, and the Commonwealth of Puerto Rico, the Secretary may designate any part of the areas as a rural area if the Secretary determines that the part is not urban in character, other than any area included in the Honolulu census designated place (CDP) or the San Juan CDP.

Rural Development—A mission area within USDA consisting of the Office of

Under Secretary for Rural Development, Rural Development Business and Cooperative Programs, Rural Development Housing Programs, and Rural Development Utilities Programs and their successors.

Small, Socially-Disadvantaged Agricultural Producer—Socially-disadvantaged persons or 100 percent socially-disadvantaged producer-owned entities, including farmers, ranchers, loggers, agricultural harvesters, and fishermen, that have averaged $250,000 or less in annual gross sales of agricultural products in the last 3 years.

Socially-Disadvantaged Producer—Individual agricultural producers who have been subjected to racial, ethnic or gender prejudice because of their identity as members of a group, without regard for their individual qualities.

State—Includes each of the several states, the Commonwealth of Puerto Rico, the Virgin Islands of the United States, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and, as may be determined by the Secretary to be feasible, appropriate and lawful, the Federated States of Micronesia, the Republic of the Marshall Islands and the Republic of Palau.

Technical Assistance—An advisory service performed for the benefit of a small, socially-disadvantaged agricultural producer such as market research; product and/or service improvement; legal advice and assistance; feasibility study, business plan, and marketing plan development; and training. Technical assistance does not include the operating costs of a cooperative being assisted.

II. Award Information

Type of Award: Grant.

Fiscal Year Funds: FY 2009.

Approximate Total Funding: $1.463 million.

Approximate Number of Awards: 8.

Approximate Average Award: $175,000.

Floor of Award Range: None.

Ceiling of Award Range: $175,000.

Anticipated Award Date: September 1, 2009.

Budget Period Length: 12 months.

Project Period Length: 12 months.

III. Eligibility Information

A. Eligible Applicants

Applicants must be a cooperative or an association of cooperatives as defined in this Notice, and must be able to verify their legal structure as a cooperative in the state in which they are incorporated. Individuals are not eligible for this program.

B. Cost Sharing or Matching

No matching funds are required.

C. Other Eligibility Requirements

Use of Funds: Funds may only be used for technical assistance projects as defined in this notice.

Project Area Eligibility: The Project proposed must take place in a rural area as defined in this Notice.

Grant Period Eligibility: If awarded, grant funds must be expended in 1 year. Applications must have a time frame of no more than 365 days with the time period beginning no earlier than October 1, 2009, and ending no later than December 31, 2010. Projects must be completed within the 1-year time frame. The Agency will not approve requests to extend the grant period. Applications that request funds for a time period ending after December 31, 2010, will not be considered for funding.

Completeness Eligibility: Applications lacking sufficient information to determine eligibility and scoring will be considered ineligible. Applications that are non-responsive to this notice will be considered ineligible.

Multiple Grant Eligibility: An applicant may not submit more than one grant application in any one funding cycle.

Activity Eligibility: Applications must propose technical assistance, as defined in this notice, to benefit their members or other small socially-disadvantaged agricultural producers who are not members, in order to be considered for funding. Applications having ineligible costs equaling more than 10 percent of total project costs will be determined ineligible and will not be considered for funding. Applications having ineligible costs of 10 percent or less of total project costs and which are selected for funding, must remove all ineligible costs from the budget and replace them with eligible activities or the amount of the grant award will be reduced accordingly. Applicants may not submit applications that duplicate current activities or activities paid for by other federally funded grant programs.

IV. Application and Submission Information

A. Address To Request Application Package

The application package for applying on paper for this funding opportunity can be obtained at *http://www.rurdev.usda.gov/rbs/coops/ssdpg/ssdpg.htm.* Alternatively, applicants may contact their USDA Rural Development State Office. Contact information for State Offices can be found at *http://www.rurdev.usda.gov/rbs/coops/rcdg/Contacts.htm.*

For electronic applications, applicants must visit *http://www.grants.gov* and follow the instructions.

B. Content and Form of Submission

Applications must be submitted on paper or electronically. An application guide may be viewed at *http://www.rurdev.usda.gov/rbs/coops/ssdpg/ssdpg.htm.* It is recommended that applicants use the template provided on the Web site. The template can be filled out electronically and printed out for submission with the required forms for paper submission or it can be filled out electronically and submitted as an attachment through *http://www.grants.gov*.

If the application is submitted electronically, the applicant must follow the instructions given at the Internet address: *http://www.grants.gov*. Applicants are advised to visit the site well in advance of the application deadline if they plan to apply electronically to ensure that they have obtained the proper authentication and have sufficient computer resources to complete the application.

Applicants must complete and submit the following elements. The Agency will screen all applications for eligibility and to determine whether the application is complete and sufficiently responsive to the requirements set forth in this notice to allow for an informed review. Information submitted as part of the application will be protected to the extent permitted by law.

1. *Form SF–424, ''Application for Federal Assistance.''* The form must be completed, signed and submitted as part of the application package.

Please note that applicants are required to have a Dun and Bradstreet Data Universal Numbering System (DUNS) number. The DUNS number is a nine-digit identification number, which uniquely identifies business entities. There is no charge. To obtain a DUNS number, access *http://www.dnb.com/us/* or call 866–705–5711. For more information, see the SSDPG Web site at *http://www.rurdev.usda.gov/rbs/coops/ssdpg/ssdpg.htm* or by contacting the applicant's USDA Rural Development State Office. In addition to the DUNS number, an applicant must provide their Employment Identification Number.

2. *Form SF–424A, ''Budget Information—Non-Construction Programs.''* This form must be completed and submitted as part of the application package.

3. *Form SF–424B, ''Assurances—Non-Construction Programs.''* This form

must be completed, signed, and submitted as part of the application package.

4. *Table of Contents.* For ease of locating information, each application must contain a detailed Table of Contents (TOC) immediately following the SF–424B. The TOC must include page numbers for each component of the application. Pagination should begin immediately following the TOC.

5. *Executive Summary.* A summary of the proposal, not to exceed one page, must briefly describe the project, tasks to be completed and other relevant information that provides a general overview of the project.

6. *Eligibility Discussion:* A detailed discussion, not to exceed four pages, must describe how the applicant meets the following requirements.

(i) *Applicant Eligibility:* Applicants must be cooperatives or associations of cooperatives comprised of small, socially-disadvantaged agricultural producers and must describe how they meet the definition as defined in the Definitions section of this Notice. Applicant must also verify their incorporation as a cooperative or an association of cooperatives in the state they have applied by providing the state's Certificate of Good Standing, and their Articles of Incorporation and By-Laws. The applicant must apply as only one type of applicant.

(ii) *Use of Funds:* The applicant must provide a detailed discussion on how the proposed project activities meet the definition of technical assistance.

(iii) *Project Area:* The applicant must provide specific information on where the projects are planned to be located and that the areas meet the definition of ''rural area.''

(iv) *Grant Period:* The applicant must provide a time frame for the proposed project and discuss how the project will be completed within that time frame.

7. *Budget/Work Plan:* The applicant must describe, in detail not to exceed four pages, the purpose of the grant, what type of assistance will be provided, and the total amount of funds needed to assist for each project. The budget must also present a breakdown of estimated costs associated with each task/activity for each project. The amount of grant funds requested will be adjusted if the applicant does not have justification for all costs.

8. *Evaluation Criteria:* Each of the evaluation criteria referenced in this notice must be addressed, specifically and individually on separate pages, in narrative form, not to exceed a total of two pages for each evaluation criteria. Failure to address each evaluation criteria will result in the application being determined ineligible.

C. Submission Dates and Times

Application Deadline Date: August 10, 2009.

Explanation of Deadlines: Paper applications must be Postmarked and mailed, shipped, or sent overnight by the deadline date (see section IV.F. for the address). Electronic applications must be Received by *http://www.grants.gov* by the deadline date. Courier applications must be delivered by the deadline date. If the Applicant's application does not meet the deadline, it will not be considered for funding. Applicants will be notified if their application did not meet the submission deadline.

D. National Environmental Policy Act

All grants made under this NOFA are subject to the requirements of 7 CFR 1940 subpart G. Applications for technical assistance are generally excluded from the environmental review process by 1940.333, provided the assistance is not related to the development of a specific site.

E. Intergovernmental Review of Applications

Executive Order (EO) 12372, Intergovernmental Review of Federal Programs, applies to this program. This EO requires that Federal agencies provide opportunities for consultation on proposed assistance with State and local governments. Many states have established a Single Point of Contact (SPOC) to facilitate this consultation. A list of states that maintain an SPOC may be obtained at *http://www.whitehouse.gov/omb/grants/spoc.html*. If your state has an SPOC, you may submit your application directly for review. Any comments obtained through the SPOC must be provided to Rural Development for consideration as part of your application. If your state has not established a SPOC or you do not want to submit your application to the SPOC, Rural Development will submit your application to the SPOC or other appropriate agency or agencies.

You are also encouraged to contact Cooperative Programs at 202–720–8460 or *cpgrants@wdc.usda.gov* if you have questions about this process.

F. Funding Restrictions

Grant funds must be used for technical assistance. No funds made available under this solicitation shall be used to:

1. Plan, repair, rehabilitate, acquire, or construct a building or facility, including a processing facility;

2. Purchase, rent, or install fixed equipment, including processing equipment;

3. Purchase vehicles, including boats;

4. Pay for the preparation of the grant application;

5. Pay expenses not directly related to the funded project;

6. Fund political or lobbying activities;

7. Fund any activities prohibited by 7 CFR parts 3015 and 3019;

8. Fund architectural or engineering design work for a specific physical facility;

9. Fund any direct expenses for the production of any commodity or product to which value will be added, including seed, rootstock, labor for harvesting the crop, and delivery of the commodity to a processing facility;

10. Fund research and development;

11. Purchase land;

12. Duplicate current services or replace or substitute support previously provided;

13. Pay costs of the project incurred prior to the date of grant approval;

14. Pay for assistance to any private business enterprise, which does not have at least 51 percent ownership by those who are either citizens of the United States or reside in the United States after being legally admitted for permanent residence;

15. Pay any judgment or debt owed to the United States;

16. Pay the operating costs of cooperative and/or association of cooperatives;

17. Pay expenses for applicant employee training; or

18. Pay for any goods or services from a person who has a conflict of interest.

G. Other Submission Requirements

Applicants may submit their paper application for a grant to their Rural Development State Office listed under the **ADDRESSES** section. Applicants may submit their application electronically at *http://www.grants.gov*. Applications may not be submitted by electronic mail, facsimile, or hand-delivery. Each application submission must contain all required documents in one envelope, if sent by mail or express delivery service.

V. Application Scoring Criteria Review Information

A. Criteria

All eligible and complete applications will be evaluated based upon the following criteria. Failure to address any one of the following criteria by the

application deadline will result in the application being determined ineligible and the application will not be considered for funding. The total points possible for the criteria are 50. Any application receiving less than 30 total points will not be funded.

1. *Technical Assistance.* (0–15 points) The application will be evaluated to determine the applicant's ability to assess the needs of small socially-disadvantaged producers, plan and conduct appropriate and effective assistance, and identify the expected outcomes of that assistance.

(i) 0 points will be awarded if the applicant does not substantively address this criterion.

(ii) 1–4 points will be awarded if the applicant demonstrates weakness in addressing this criterion.

(iii) 5–10 points will be awarded if the applicant demonstrates they meet part but not all of the criterion.

(iv) 15 points will be awarded if the applicant identifies specific needs of the socially-disadvantaged producers to be assisted; clearly articulates a logical and detailed plan of assistance for addressing those needs; and discusses realistic outcomes of planned assistance.

2. *Experience.* (0–15 points) Points will be awarded based upon length of experience of identified staff or consultants in providing technical assistance, as defined in this notice. Applicants must describe the specific type of technical assistance experience for each identified staff member or consultant, as well as years of experience in providing that assistance. In addition, résumés for each individual staff member or consultant must be included as an attachment, listing their experience for the type of technical assistance proposed. The attachments will not count toward the maximum page total. The Agency will compare the described experience to the work plan to determine relevance of experience.

(i) 0 points will be awarded if the staff or consultants demonstrate no relevant experience in providing technical assistance;

(ii) 5 points will be awarded if at least one of the identified staff or consultants demonstrates more than two years of experience in providing relevant technical assistance;

(iii) 10 points will be awarded if at least one of the identified staff or consultants demonstrates 5 or more years of experience in providing relevant technical assistance; or

(iv) 15 points will be awarded if all of the identified staff or consultants demonstrate 5 or more years of experience in providing relevant technical assistance.

3. *Commitment.* (0–15 points) The Agency will evaluate the applicant's commitment to providing technical assistance to socially-disadvantaged producers in rural areas. Points will be awarded based upon the number of agricultural, socially-disadvantaged producers being assisted. Applicants must list the number and location of small, socially-disadvantaged agricultural producers that will directly benefit from the assistance provided.

(i) 0 points will be awarded if the applicant does not substantively address this criterion.

(ii) 5 points will be awarded if the proposed project will benefit 1–10 producers;

(iii) 10 points will be awarded if the proposed project will benefit 11–50 producers; or

(iv) 15 points will be awarded if the proposed project will benefit more than 50 producers.

4. *Local support.* (0–5 points) Applications will be reviewed for local support for the technical assistance activities of the cooperative. Applicants that demonstrate strong support from potential beneficiaries and other developmental organizations will receive more points than those not evidencing such support.

(i) 0 points will be awarded if the applicant does not substantively address this criterion.

(ii) 1 point will be awarded if the applicant provides or references 2–3 support letters that demonstrate substantive support from potential beneficiaries and/or support from local organizations.

(iii) 2 points will be awarded if the applicant provides or references 4–5 support letters that demonstrate substantive support from potential beneficiaries and/or support from local organizations.

(iv) 3 points will be awarded if the applicant provides or references 6–7 support letters that demonstrate substantive support from potential beneficiaries and/or support from local organizations.

(v) 4 points will be awarded if the applicant provides or references 8–9 support letters that demonstrate substantive support from potential beneficiaries and/or support from local organizations.

(vi) 5 points will be awarded if the applicant provides or references 10 support letters that demonstrate substantive support from potential beneficiaries and/or support from local organizations.

The applicant may submit a maximum of 10 letters of support. These letters should be included as an attachment to the application and will not count against the maximum page total. Additional letters from industry groups, commodity groups, local and State government, and similar organizations should be referenced, but not included in the application package. When referencing these letters, provide the name of the organization, date of the letter, the nature of the support, and the name and title of the person signing the letter.

B. Review and Selection Process

The Agency will screen all proposals to determine whether the application is eligible and sufficiently responsive to the requirements set forth in this notice to allow for an informed review. Applications will be screened for eligibility and scored by the State Offices, then submitted to the National Office for review and ranking. The National Office will review the scores based upon the point allocation specified in this notice. Applications will be funded in scoring rank order and will be submitted to the Administrator in rank order with funding level recommendations. The Administrator will break scoring ties based on Agency priorities.

C. Anticipated Announcement and Award Dates

Award Date: The announcement of award selections is expected to occur on or about September 1, 2009.

VI. Award Administration Information

A. Award Notices

Successful applicants will receive a notification of tentative selection for funding from Rural Development. Applicants must comply with all applicable statutes, regulations, and this notice before the grant award will receive final approval.

Unsuccessful applicants will receive notification, including appeal rights, by mail.

B. Administrative and National Policy Requirements

7 CFR parts 3015, 3019, and subparts A and F of part 7 CFR 4284 are applicable to grants made under this notice. These regulations may be obtained at *http://www.gpoaccess.gov/cfr/index.html*.

The following additional requirements apply to grantees selected for this program:

- Agency approved Grant Agreement.
- Letter of Conditions.

• Form RD 1940–1, ''Request for Obligation of Funds.''
• Form RD 1942–46, ''Letter of Intent to Meet Conditions.''
• Form AD–1047, ''Certification Regarding Debarment, Suspension, and Other Responsibility Matters—Primary Covered Transactions.''
• Form AD–1048, ''Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion—Lower Tier Covered Transactions.''
• Form AD–1049, ''Certification Regarding a Drug-Free Workplace Requirements (Grants).''
• Form RD 400–4, ''Assurance Agreement.''

Additional information on these requirements can be found at *http://www.rurdev.usda.gov/rbs/coops/ssdpg/ssdpg.htm*.

Fund Disbursement: The Agency will determine, based on 7 CFR parts 3015, 3016 and 3019, as applicable, whether disbursement of a grant will be by advance or reimbursement. As needed, but not more frequently than once every 30 days, an original of SF–270, ''Request for Advance or Reimbursement,'' may be submitted to Rural Development. Recipient's request for advance shall not be made in excess of reasonable outlays for the month covered.

Reporting Requirements: Grantees must provide Rural Development with an original or an electronic copy that includes all required signatures of the following reports. The reports should be submitted to the Agency contact listed on the Grant Agreement and Letter of Conditions. Failure to submit satisfactory reports on time may result in suspension or termination of the grant. Grantees will submit:

1. Form SF–269 or SF–269A. A ''Financial Status Report,'' listing expenditures according to agreed upon budget categories, on a semi-annual basis. Reporting periods end each March 31 and September 30. Reports are due 30 days after the reporting period ends.

2. Semi-annual performance reports comparing accomplishments to the objectives stated in the proposal, identifying all tasks completed to date and providing documentation supporting the reported results. If the original schedule provided in the work plan is not being met, the report should discuss the problems or delays that may affect completion of the Project. Objectives for the next reporting period should be listed. Compliance with any special condition on the use of award funds must be discussed. Reports are due as provided in paragraph (1) of this section. Supporting documentation must also be submitted for completed tasks. The supporting documentation for completed tasks includes, but is not limited to, feasibility studies, marketing plans, business plans, articles of incorporation, and bylaws as they relate to the assistance provided.

3. Final project performance reports comparing accomplishments to the objectives stated in the proposal, identifying all tasks completed, and providing documentation supporting the reported results. If the original schedule provided in the work plan was not met, the report must discuss the problems or delays that affected completion of the project. Compliance with any special condition on the use of award funds must be discussed. Supporting documentation for completed tasks must also be submitted. The supporting documentation for completed tasks includes, but is not limited to, feasibility studies, marketing plans, business plans, articles of incorporation, and bylaws as they relate to the assistance provided. The final performance report is due within 90 days of the completion of the project. The report must also include a summary at the end of the report with the number of small socially disadvantaged agricultural producers assisted to assist in documenting the annual performance goals of the SSDPG program for Congress.

VII. Agency Contacts

For general questions about this announcement and for program technical assistance, please contact the appropriate State Office as indicated in the Addresses section of this notice.

VIII. Non-Discrimination Statement

The U.S. Department of Agriculture (USDA) prohibits discrimination in all its programs and activities on the basis of race, color, national origin, age, disability, and where applicable, sex, marital status, familial status, parental status, religion, sexual orientation, genetic information, political beliefs, reprisal, or because all or part of an individual's income is derived from any public assistance program. (Not all prohibited bases apply to all programs.) Persons with disabilities who require alternative means for communication of program information (Braille, large print, audiotape, etc.) should contact USDA's TARGET Center at (202) 720–2600 (voice and TDD). To file a complaint of discrimination, write to USDA, Director, Office of Civil Rights, 1400 Independence Avenue, SW., Washington, DC 20250–9410, or call (800) 795–3272 (voice) or (202) 720–6382 (TDD). USDA is an equal opportunity provider and employer.

Dated June 19, 2009.

Judith A. Canales,

Administrator, Rural Business-Cooperative Service.

[FR Doc. E9–14954 Filed 6–24–09; 8:45 am]

BILLING CODE 3410–XY–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–947]

Certain Steel Grating from the People's Republic of China: Initiation of Antidumping Duty Investigation

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

EFFECTIVE DATE: June 25, 2009.

FOR FURTHER INFORMATION CONTACT: Thomas Martin at (202) 482–3936 or Robert Bolling at (202) 482–3434, AD/CVD Operations, Office 4, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

The Petition

On May 29, 2009, the Department of Commerce (''the Department'') received a petition concerning imports of certain steel grating (''CSG'') from the People's Republic of China (''the PRC'') filed in proper form by Fisher & Ludlow and Alabama Metal Industries Corporation (''AMICO'') (collectively ''Petitioners''). *See* the Petitions for the Imposition of Antidumping and Countervailing Duties: Certain Steel Grating from the PRC submitted on May 29, 2009 (''the Petition''). On June 4, 2009, and on June 11, 2009, the Department issued requests for additional information and clarification involving certain areas of the Petition. Based on the Department's requests, Petitioners filed additional information on June 9, 2009, and June 15, 2009. Specifically, Petitioners filed two submissions on June 9, 2009, one regarding general issues of the petition, and one containing clarifications specific to the antidumping allegation (hereinafter ''Supplement to the AD/CVD Petitions'' and ''Supplement to the AD Petition'' respectively). Petitioners also filed two submissions on June 15, 2009, again one containing more clarifications on general issues of the petition, and one providing requested clarification pertaining to the antidumping allegations (hereinafter ''Second Supplement to the AD/CVD Petitions'' and ''Second Supplement to the AD Petition'' respectively).

In accordance with section 732(b) of the Tariff Act of 1930, as amended (''the Act''), Petitioners allege that imports of CSG from the PRC are being, or are likely to be, sold in the United States at less than fair value, within the meaning of section 731 of the Act, and that such imports are materially injuring, or threatening material injury to, an industry in the United States.

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

Scope of Investigation

The products covered by this investigation are certain steel grating from the PRC. For a full description of the scope of the investigation, please see the ''Scope of Investigation'' in Appendix I of this notice.

Comments on Scope of Investigation

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

Comments on Product Characteristics for Antidumping Duty Questionnaires

We are requesting comments from interested parties regarding the appropriate physical characteristics of CSG to be reported in response to the Department's antidumping questionnaires. This information will be used to identify the key physical characteristics of the subject merchandise in order to more accurately report the relevant factors and costs of production, as well as to develop appropriate product comparison criteria.

Interested parties may provide any information or comments that they feel are relevant to the development of an accurate listing of physical characteristics. Specifically, they may provide comments as to which characteristics are appropriate to use as: 1) general product characteristics; and 2) the product comparison criteria. We note that it is not always appropriate to use all product characteristics as product comparison criteria. We base product comparison criteria on meaningful commercial differences among products. In other words, while there may be some physical product characteristics utilized by manufacturers to describe CSG, it may be that only a select few product characteristics take into account commercially meaningful physical characteristics. In addition, interested parties may comment on the order in which the physical characteristics should be used in product matching. Generally, the Department attempts to list the most important physical characteristics first and the least important characteristics last.

In order to consider the suggestions of interested parties in developing and issuing the antidumping duty questionnaires, we must receive comments at the above–referenced address by July 9, 2009. Additionally, we must receive rebuttal comments by July 16, 2009.

Determination of Industry Support for the Petition

Section 732(b)(1) of the Act requires that a petition be filed on behalf of the domestic industry. Section 732(c)(4)(A) of the Act provides that a petition meets this requirement if the domestic producers or workers who support the petition account for: (i) at least 25 percent of the total production of the domestic like product; and (ii) more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petition. Moreover, section 732(c)(4)(D) of the Act provides that, if the petition does not establish support of domestic producers or workers accounting for more than 50 percent of the total production of the domestic like product, the Department shall: (i) poll the industry or rely on other information in order to determine if there is support for the petition, as required by subparagraph (A), or (ii) determine industry support using a statistically valid sampling method to poll the industry.

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

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

With regard to the domestic like product, Petitioners do not offer a definition of domestic like product distinct from the scope of the investigation. Based on our analysis of the information submitted on the record, we have determined that CSG constitutes a single domestic like product and we have analyzed industry support in terms of that domestic like product. For a discussion of the domestic like product analysis in this case, *see* Antidumping Duty Investigation Initiation Checklist: CSG from the PRC (''Initiation Checklist'') at Attachment II (''Industry Support''), dated concurrently with this notice and on file in the Central Records Unit (''CRU''), Room 1117 of the main Department of Commerce building.

In determining whether Petitioners have standing, pursuant to section

732(c)(4)(A) of the Act, we considered the industry support data contained in the Petition with reference to the domestic like product as defined in the ''Scope of Investigation'' section above. To establish industry support, Petitioners provided their production of the domestic like product for the year 2008, as well as the production of three companies who support the Petition, and compared this to an estimate of total production of the domestic like product for the entire domestic industry. *See* Volume I of the Petitions at 3–6, and Exhibits I–3, and Supplement to the AD/CVD Petitions, at 8–10, and Exhibits 3, 4, 5, 6, and 7. To estimate 2008 production of the domestic like product, Petitioners used their own data as well their own industry–specific knowledge. Petitioners calculated total domestic production based on information provided by companies that are supporters of the Petition and that produce the domestic like product in the United States, as well estimates of production of non–petitioning producers of the domestic like product who have not expressed an opinion regarding the Petition. *Id.*; *see also* Initiation Checklist as Attachment II, Industry Support.

Our review of the data provided in the Petition, supplemental submissions, and other information readily available to the Department indicates that Petitioners have established industry support. First, the Petition established support from domestic producers (or workers) accounting for more than 50 percent of the total production of the domestic like product and, as such, the Department is not required to take further action in order to evaluate industry support (*e.g.*, polling). *See* Section 732(c)(4)(D) of the Act and Initiation Checklist at Attachment II (Industry Support). Second, the domestic producers (or workers) have met the statutory criteria for industry support under section 732(c)(4)(A)(i) of the Act because the domestic producers (or workers) who support the Petition account for at least 25 percent of the total production of the domestic like product. *See* Initiation Checklist at Attachment II (Industry Support). Finally, the domestic producers (or workers) have met the statutory criteria for industry support under section 732(c)(4)(A)(ii) of the Act because the domestic producers (or workers) who support the Petition account for more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the Petition. *Id.* Accordingly, the Department determines that the Petition was filed on behalf of the domestic industry within the meaning of section 732(b)(1) of the Act. *Id.*

The Department finds that Petitioners filed the Petition on behalf of the domestic industry because they are interested parties as defined in section 771(9)(C) of the Act and they have demonstrated sufficient industry support with respect to the antidumping investigation that they are requesting the Department initiate. *Id.*

Allegations and Evidence of Material Injury and Causation

Petitioners allege that the U.S. industry producing the domestic like product is being materially injured, or is threatened with material injury, by reason of the imports of the subject merchandise sold at less than normal value (''NV''). In addition, Petitioners allege that subject imports exceed the negligibility threshold provided for under section 771(24)(A) of the Act.

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

Period of Investigation

In accordance with 19 CFR 351.204(b), because this Petition was filed on May 29, 2009, the anticipated period of investigation (''POI'') is October 1, 2008 through March 31, 2009, the two most recently completed fiscal quarters, as of the month preceding the month in which the Petition was filed.

Allegations of Sales at Less Than Fair Value

The following is a description of the allegation of sales at less than fair value upon which the Department based its decision to initiate this investigation of imports of CSG from the PRC. The sources of data for the deductions and adjustments relating to the U.S. price, and the factors of production, are also discussed in the Initiation Checklist, issued concurrently with this **Federal Register** notice. *See* Initiation Checklist. Should the need arise to use any of this information as facts available under section 776 of the Act in our preliminary or final determinations, we will reexamine the information and revise the margin calculations, if appropriate.

Export Price

Petitioners calculated export prices (''EPs'') based on an offer for sale of five CSG products by a Chinese producer, sale term CIF. Petitioners presented an affidavit, in which they confirmed that the sales offer was made during the POI. *See* Initiation Checklist for further discussion

To calculate the net U.S. EP, Petitioners deducted from the U.S. prices the costs associated with exporting and delivering the product, which included expenses relating to foreign inland freight, ocean freight, insurance, foreign brokerage and handling, and U.S. port expenses (*i.e.*, fees for security, unloading, and wharfage). *See* Volume II of the Petition at 4–10 and Exhibit II–9; *see also* Supplement to the AD Petition, at 1–3 and Exhibits S–1, S–2, S–3, S–4, S–5, and S–9, and Second Supplement to the AD Petition, at 1–2.

To be conservative, Petitioners did not make specific adjustments to the U.S. price for foreign port charges (stevedoring, wharfage and handling charges) and U.S. port expenses of unloading fee and wharfage because: (1) these expenses are either included in Petitioners' calculated ocean freight and insurance expenses; or (2) the information regarding the length of time in which goods would remain within the limits of the export and import ports was unclear to Petitioners. *See* Volume II of the Petition at 9–10. Petitioners calculated the per–unit value of ocean freight and insurance using the U.S. ITC data, by deducting the reported customs value of CSG landed in a specific U.S. port from the reported CIF value and dividing the resulting amount by the total import quantity. *See* Volume II of the Petition at 7–8 and Exhibit II–7; Supplement to the AD Petition, 2–3 and Exhibit S–4; and Second Supplement to the AD Petition, at 1–2. The U.S. Census Bureau defines CIF data as the sum of import charges and customs value. *See* http://www.census.gov/foreign–trade/www/sec2.html#valcusimports. Accordingly, when customs value is deducted from the CIF value, the remaining amount represents import charges. The U.S. Census Bureau defines import charges as ''the aggregate cost of all freight, insurance, and other

charges (excluding U.S. import duties) incurred in bringing the merchandise from alongside the carrier at the port of exportation in the country of exportation and placing it alongside the carrier at the first port of entry in the United States.'' *Id*. Thus it is clear that import charges, the basis for ocean freight and insurance, include expenses associated with loading the merchandise from the wharf to the carrier, and those expenses associated with unloading the merchandise from the vessel to wharf, (*i.e.*, stevedoring, wharfage and handling).

Petitioners calculated PRC brokerage and handling by using the brokerage and handling surrogate value used in the investigation of *Certain Activated Carbon From the People's Republic of China: Notice of Preliminary Results of the Antidumping Duty Administrative Review and Extension of Time Limits for the Final Results*, 74 FR 21317 (May 7, 2009) (''*Activated Carbon From China*''), and inflated it to the POI. *See Activated Carbon From China* 74 FR at 21328. *See also* Volume II of Petition, at 8–9, and Exhibit II–8, and Supplement to AD Petition, at 2 and Exhibit S–3.

Normal Value

Petitioners state that the PRC is a non–market economy (''NME'') country and no determination to the contrary has been made by the Department. *See* Volume II of the Petition at 11. Petitioners state that the Department has treated the PRC as an NME country in every administrative proceeding in which the PRC has been involved, and has continued to do so in recent months. *Id*.

In accordance with section 771(18)(C)(i) of the Act, the presumption of NME status remains in effect until revoked by the Department. The presumption of NME status for the PRC has not been revoked by the Department and, therefore, remains in effect for purposes of the initiation of this investigation. Accordingly, the NV of the product is appropriately based on factors of production valued in a surrogate market–economy country in accordance with section 773(c) of the Act. In the course of this investigation, all parties, including the public, will have the opportunity to provide relevant information related to the issues of the PRC's NME status and the granting of separate rates to individual exporters.

Citing section 773(c)(4) of the Act, Petitioners contend that India is the appropriate surrogate country for the PRC because: 1) it is at a level of economic development comparable to that of the PRC; and 2) it is a significant producer of CSG. *See* Volume II of the Petition at 11–13 and Exhibits II–10, II–11 and II–12. Based on the information provided by Petitioners, we believe that it is appropriate to use India as a surrogate country for initiation purposes. After initiation of the investigation, interested parties will have the opportunity to submit comments regarding surrogate–country selection and, pursuant to 19 CFR 351.301(c)(3)(i), will be provided an opportunity to submit publicly available information to value factors of production within 40 days after the date of publication of the preliminary determination.

Petitioners calculated the NV and dumping margins for the U.S. prices, discussed above, using the Department's NME methodology as required by 19 CFR 351.202(b)(7)(i)(C) and 19 CFR 351.408. Petitioners calculated NV based on the consumption rates of a U.S. CSG producer for the period of October 2008 through March 2009. *See* Volume II of the Petition at 13–23, and Exhibit II–13, and Supplement to the AD Petition at 5–8. Petitioners state that a U.S. CSG producer has produced CSG for many years, using a production method similar to that employed by the PRC manufacturer from whom Petitioners obtained the sales offer, upon which they relied for calculating the EP, discussed above. Accordingly, Petitioners state that the U.S. producer's production experience is representative of the production process used in the PRC. *See* Volume II of the Petition at 16 and Exhibit II–13, *see also* Supplement to the AD Petition, at 4–8 and Exhibit S–9.

Petitioners valued the factors of production based on reasonably available, public surrogate–country data, including Indian statistics from the Global Trade Information Services database known as Global Trade Atlas. *See* Volume II of the AD Petition at 18–20 and Exhibit II–15; *see also* Supplement to the AD Petition, at 8–9 and Exhibits S–6 and S–9 and Second Supplement to AD Petition, at 3 and 5 and Exhibits S2–2 and S2–3. Petitioners adjusted the values for raw materials by the freight costs associated with the transportation of raw materials from outside suppliers. *See* Volume II of the AD Petition at 17–19 and Exhibit II–18; *see also* Supplement to AD Petition, at 1, and Exhibit S–1. In addition, Petitioners made currency conversions, where necessary, based on the POI–average rupee/U.S. dollar exchange rate, as reported on the Department's website. *See* Volume II of the Petition at 17 and Exhibit II–4. Petitioners determined labor costs using the labor consumption, in hours, derived from a U.S. CSG producer. *See* Volume II of the AD Petition at 21, and Supplement to the AD Petition, at 6 and Exhibit S–7.

Petitioners determined labor costs using the Department's NME Wage Rate for the PRC at *http://ia.ita.doc.gov/wages/05wages/05wages–051608.html#table2*. *See* Volume II of the Petition at 21 and Exhibit II–17, and Supplement to the AD Petition, at 2–3. For purposes of initiation, the Department determines that the surrogate values used by Petitioners are reasonably available and, thus, acceptable for purposes of initiation.

Petitioners determined electricity costs using the electricity consumption, in kilowatt hours, derived from a U.S. producer. Petitioners valued electricity using the Indian electricity rate reported by the Central Electric Authority of the Government of India. *See* Volume II of the Petition, at 20–21 and Exhibit II–16; *see also* Supplement to the AD Petition, at 6 and Exhibit S–6.

Petitioners based factory overhead, selling, general and administrative, and profit on data from Mekins Agro Products Limited (''Mekins'') for the fiscal year April 2007, through March 2008. *See* Supplement to the AD Petition, at 10 and Exhibit S–8. Petitioners state that, like steel grating, the products manufactured by Mekins are steel goods which are unrolled, slit to or cut to the desired size and then welded utilizing welding machinery. Accordingly, Petitioners maintain that using Mekins' financial ratios satisfies the Department's ''comparable'' industry requirements, as they were unable to obtain industry–specific financial statements from India. Although the Mekins financial statement has a line item for state subsidy, we have insufficient evidence with respect to this line item to determine that the financial statement is less representative than other available information. *See Certain Frozen Warmwater Shrimp From the Socialist Republic of Vietnam: Final Results of the First Antidumping Duty Administrative Review and First New Shipper Review*, 72 FR 52052 (September 12, 2007) at Comment 2c. Therefore, for purposes of the initiation, the Department finds Petitioners' use of Mekins' financial ratios appropriate.

Fair–Value Comparisons

Based on the data provided by Petitioners, there is reason to believe that imports of CSG from the PRC are being, or are likely to be, sold in the United States at less than fair value. Based on a comparison of EP and NV calculated in accordance with section 773(c) of the Act, the estimated

dumping margins for CSG from the PRC range from 131.51 percent to 145.18 percent. *See* Initiation Checklist.

Initiation of Antidumping Investigation

Based upon the examination of the Petition on CSG from the PRC the Department finds that the Petition meets the requirements of section 732 of the Act. Therefore, we are initiating an antidumping duty investigation to determine whether imports of CSG from the PRC are being, or are likely to be, sold in the United States at less than fair value. In accordance with section 733(b)(1)(A) of the Act and 19 CFR 351.205(b)(1), unless postponed, we will make our preliminary determination no later than 140 days after the date of this initiation.

Targeted–Dumping Allegation

On December 10, 2008, the Department issued an interim final rule for the purpose of withdrawing 19 CFR 351.414(f) and (g), the regulatory provisions governing the targeted-dumping analysis in antidumping duty investigations, and the corresponding regulation governing the deadline for targeted–dumping allegations, 19 CFR 351.301(d)(5). *See Withdrawal of the Regulatory Provisions Governing Targeted Dumping in Antidumping Duty Investigations*, 73 FR 74930 (December 10, 2008). The Department stated that ''{w}ithdrawal will allow the Department to exercise the discretion intended by the statute and, thereby, develop a practice that will allow interested parties to pursue all statutory avenues of relief in this area.'' *Id.* at 74931.

In order to accomplish this objective, if any interested party wishes to make a targeted- dumping allegation in this investigation pursuant to section 777A(d)(1)(B) of the Act, such allegations are due no later than 45 days before the scheduled date of the country–specific preliminary determination.

Respondent Selection

For this investigation, the Department will request quantity and value information from all known exporters and producers identified with complete contact information in the Petition. *See* Supplement to the AD Petition, at Exhibit S–1. The quantity and value data received from NME exporters/ producers will be used as the basis to select the mandatory respondents.

The Department requires that the respondents submit a response to both the quantity and value questionnaire and the separate–rate application by the respective deadlines in order to receive consideration for separate–rate status. *See Circular Welded Austenitic Stainless Pressure Pipe from the People's Republic of China: Initiation of Antidumping Duty Investigation*, 73 FR 10221, 10225 (February 26, 2008), and *Initiation of Antidumping Duty Investigation: Certain Artist Canvas From the People's Republic of China*, 70 FR 21996, 21999 (April 28, 2005). Appendix II of this notice contains the quantity and value questionnaire that must be submitted by all NME exporters/producers no later than July 14, 2009. In addition, the Department will post the quantity and value questionnaire along with the filing instructions on the Import Administration website at http://ia.ita.doc.gov/ia–highlights-and–news.html.

Separate Rates

In order to obtain separate–rate status in NME investigations, exporters and producers must submit a separate–rate status application. *See* Policy Bulletin 05.1: Separate–Rates Practice and Application of Combination Rates in Antidumping Investigations involving Non–Market Economy Countries (April 5, 2005) (''Separate Rates and Combination Rates Bulletin''), available on the Department's website at http://ia.ita.doc.gov/policy/bull05–1.pdf. Based on our experience in processing the separate–rate applications in previous antidumping duty investigations, we have modified the application for this investigation to make it more administrable and easier for applicants to complete. *See*, *e.g.*, *Initiation of Antidumping Duty Investigation: Certain New Pneumatic Off–the-Road Tires From the People's Republic of China*, 72 FR 43591, 43594–95 (August 6, 2007). The specific requirements for submitting the separate–rate application in this investigation are outlined in detail in the application itself, which will be available on the Department's website at http://ia.ita.doc.gov/nme/nme–sep-rate.html on the date of publication of this initiation notice in the **Federal Register**. The separate–rate application will be due 60 days after publication of this initiation notice. As noted in the ''Respondent Selection'' section above, the Department requires that respondents submit a response to both the quantity and value questionnaire and the separate–rate application by the respective deadlines in order to receive consideration for separate–rate status.

Use of Combination Rates in an NME Investigation

The Department will calculate combination rates for certain respondents that are eligible for a separate rate in this investigation. The Separate Rates and Combination Rates Bulletin states:

> {w}hile continuing the practice of assigning separate rates only to exporters, all separate rates that the Department will now assign in its NME investigations will be specific to those producers that supplied the exporter during the period of investigation. Note, however, that one rate is calculated for the exporter and all of the producers which supplied subject merchandise to it during the period of investigation. This practice applies both to mandatory respondents receiving an individually calculated separate rate as well as the pool of non–investigated firms receiving the weighted–average of the individually calculated rates. This practice is referred to as the application of ''combination rates'' because such rates apply to specific combinations of exporters and one or more producers. The cash–deposit rate assigned to an exporter will apply only to merchandise both exported by the firm in question *and* produced by a firm that supplied the exporter during the period of investigation.

See Separate Rates and Combination Rates Bulletin, at 6 (emphasis added).

Distribution of Copies of the Petition

In accordance with section 732(b)(3)(A) of the Act and 19 CFR 351.202(f), a copy of the public version of the Petition has been provided to the representatives of the Government of the PRC. Because of the particularly large number of producers/exporters identified in the Petition, the Department considers the service of the public version of the Petition to the foreign producers/exporters satisfied by the delivery of the public version to the Government of the PRC, consistent with 19 CFR 351.203(c)(2).

International Trade Commission Notification

We have notified the ITC of our initiation, as required by section 732(d) of the Act.

Preliminary Determinations by the International Trade Commission

The ITC will preliminarily determine, no later than July 13, 2009, whether there is a reasonable indication that

imports of CSG from the PRC are materially injuring, or threaten material injury to, a U.S. industry. A negative ITC determination will result in the investigation being terminated; otherwise, this investigation will proceed according to statutory and regulatory time limits.

This notice is issued and published pursuant to section 777(i) of the Act.

Dated: June 18, 2009.

Ronald K. Lorentzen,

Acting Assistant Secretary for Import Administration.

Appendix I

Scope of the Investigation

The products covered by this investigation are certain steel grating, consisting of two or more pieces of steel, including load–bearing pieces and cross pieces, joined by any assembly process, regardless of: (1) size or shape; (2) method of manufacture; (3) metallurgy (carbon, alloy, or stainless); (4) the profile of the bars; and (5) whether or not they are galvanized, painted, coated, clad or plated. Steel grating is also commonly referred to as ''bar grating,'' although the components may consist of steel other than bars, such as hot–rolled sheet, plate, or wire rod.

The scope of this investigation excludes expanded metal grating, which is comprised of a single piece or coil of sheet or thin plate steel that has been slit and expanded, and does not involve welding or joining of multiple pieces of steel. The scope of this investigation also excludes plank type safety grating which is comprised of a single piece or coil of sheet or thin plate steel, typically in thickness of 10 to 18 gauge, that has been pierced and cold formed, and does not involve welding or joining of multiple pieces of steel.

Certain steel grating that is the subject of this investigation is currently classifiable in the Harmonized Tariff Schedule of the United States (''HTSUS'') under subheading 7308.90.7000. While the HTSUS subheading is provided for convenience and customs purposes, the written description of the scope of this investigation is dispositive.

Appendix II

Format for Reporting Quantity and Value of Sales

In providing the information in the chart below, please provide the total quantity in both pieces and kilograms (kg) (net weight) and total value (in U.S. dollars) of all your sales to the United States during the period October 1, 2008, through March 31, 2009, covered by the scope of this investigation (*see* Appendix I), produced in the PRC, *i.e.* CSG.

Please provide the conversion factor used to convert pieces to kg (net weight).

Please use the invoice date when determining which sales to include within the period noted above.[1] Additionally, if you believe that you should be treated as a single entity along with other named exporters, please complete the chart, below, both in the aggregate for all named parties in your group and, in separate charts, individually for each named entity. Please label each chart accordingly.

Please state whether you exported CSG to the United States during the POI.

If you did export CSG to the United States during the POI, please state whether you produced 100 percent of the CSG that you exported to the United States during the POI.

If you did produce 100 percent of the CSG that you exported to the United States during the POI, please provide the following:

Market: United States	Total Quantity (kg) (Net Weight)	Total QuantityPieces	Terms of Sale[2]	Total Value[3] ($U.S.)
1. Export Price[4]. 2. Constructed Export Price[5]. 3. Further Manufactured[6]. Total.				

[2] To the extent possible, sales values should be reported based on the same terms (*e.g.*, FOB).

[3] Values should be expressed in U.S. dollars. Indicate any exchange rates used and their respective dates and sources.

[4] Generally, a U.S. sale is classified as an EP sale when the first sale to an unaffiliated person occurs before the goods are imported into the United States.

[5] Generally, a U.S. sale is classified as a constructed export price sale when the first sale to an unaffiliated person occurs after importation. However, if the first sale to the unaffiliated person is made by a person in the United States affiliated with the foreign exporter, constructed export price applies even if the sale occurs prior to importation. Do not report the sale to the affiliated party in the United States, rather report the sale made by the affiliated party to the unaffiliated customer in the United States.

[6] ''Further manufactured'' refers to merchandise that undergoes further manufacture or assembly in the United States before sale to the first unaffiliated customer.

[FR Doc. E9–15018 Filed 6–24–09; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[C–570–948]

Certain Steel Grating From the People's Republic of China: Initiation of Countervailing Duty Investigation

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

DATES: *Effective Date:* June 25, 2009

FOR FURTHER INFORMATION CONTACT: Sean Carey or Justin Neuman, AD/CVD Operations, Office 6, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–3964 and (202) 482–0486, respectively.

SUPPLEMENTARY INFORMATION:

The Petitions

On May 29, 2009, the Department of Commerce (the Department) received countervailing duty (CVD) and antidumping (AD) petitions concerning imports of certain steel grating (CSG) from the People's Republic of China (PRC) filed in proper form by Alabama Metal Industries Corp. (AMICO) and Fisher and Ludlow (collectively, the petitioners), domestic producers of CSG. *See* ''Petitions for the Imposition of Antidumping and Countervailing Duties: Certain Steel Grating from the People's Republic of China'' (the petitions). On June 4, 2009, the Department issued requests for additional information and clarification

[1] If you believe that another date besides the invoice date would provide a more accurate representation of your company's sales during the designated period, please provide a full explanation.

of certain areas of the CVD petition involving countervailable subsidy allegations and further information and clarification concerning general issues common to the petitions. *See* Letter from Dana Mermelstein, Program Manager, AD/CVD Operations, Office 6, to the petitioners, ''Petition for the Imposition of Countervailing Duties on Steel Gratings Imported from the People's Republic of China: Supplemental Questions, June 4, 2009.'' *See also* Letter from Robert Bolling, Program Manager, AD/CVD Operations, Office 4, to the petitioners, ''Petitions for the Imposition of Antidumping and Countervailing Duties: Certain Steel Grating from the People's Republic of China: Supplemental Questions, June 4, 2009.'' Based on the Department's requests, the petitioners timely filed additional information on June 9, 2009. A second request seeking additional information and clarification concerning general issues common to the petitions was sent to the petitioners on June 11, 2009. *See* Letter from Robert Bolling, Program Manager, AD/CVD Operations, Office 4, to the petitioners, ''Petitions for the Imposition of Antidumping and Countervailing Duties: Certain Steel Grating from the People's Republic of China: Supplemental Questions, June 11, 2009.'' Based on the Department's request, the petitioners timely filed additional information pertaining to the petitions on June 15, 2009. Finally, the petitioners clarified the ''Scope of Investigation'' on June 16, 2009.

In accordance with section 702(b)(1) of the Tariff Act of 1930, as amended (the Act), the petitioners allege that producers/exporters of CSG in the PRC received countervailable subsidies within the meaning of section 701 and 771(5) of the Act, and that imports materially injure, or threaten material injury to, an industry in the United States.

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

Period of Investigation

The anticipated period of investigation (POI) is calendar year 2008. *See* 19 CFR 351.204(b)(2).

Scope of Investigation

The products covered by this investigation are certain steel grating from the PRC. For a full description of the scope of the investigation, please see the ''Scope of Investigation'' in Appendix I to this notice.

Comments on Scope of Investigation

During our review of the CVD petition, we discussed the scope with petitioners to ensure that it is an accurate reflection of the products for which the domestic industry is seeking relief. Moreover, as discussed in the preamble to the regulations (*See Antidumping Duties; Countervailing Duties; Final Rule*, 62 FR 27296, 27323 (May 19, 1997)), we are setting aside a period for interested parties to raise issues regarding product coverage. The Department encourages all interested parties to submit such comments within twenty calendar days of the date of publication of this notice in the **Federal Register**. Comments should be addressed to the Import Administration's Central Records Unit (CRU), Room 1117, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230. The period of scope consultations is intended to provide the Department with ample opportunity to consider all comments and to consult with parties prior to the issuance of the preliminary determinations.

Consultations

Pursuant to section 702(b)(4)(A)(ii) of the Act, the Department held consultations with the government of the PRC (hereinafter, the GOC) with respect to the CVD petition on June 1, 2009. *See* Memorandum to the File, *Countervailing Duty Petitions on Pre-Stressed Concrete Steel Wire Strand and Certain Steel Grating from the People's Republic of China: Consultations with the Government of the People's Republic of China,* on file in the CRU, Room 1117 of the main Department of Commerce building.

Determination of Industry Support for the CVD Petition

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

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

Section 771(10) of the Act defines the domestic like product as ''a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this title.'' Thus, the reference point from which the domestic like product analysis begins is ''the article subject to an investigation'' (*i.e.,* the class or kind of merchandise to be investigated, which normally will be the scope as defined in the petition).

With regard to the domestic like product, petitioners do not offer a definition of domestic like product distinct from the scope of the investigation. Based on our analysis of the information submitted on the record, we have determined that CSG constitutes a single domestic like product and we have analyzed industry support in terms of that domestic like product. For a discussion of the domestic like product analysis in this case, *see Countervailing Duty Investigation Initiation Checklist: CSG from the PRC* (*CVD Initiation Checklist*)

at Attachment II (Industry Support), dated concurrently with this notice and on file in the CRU, Room 1117 of the main Department of Commerce building.

With regard to section 702(c)(4)(A), in determining whether petitioners have standing (*i.e.,* those domestic workers and producers supporting the CVD petition account for: (1) At least 25 percent of the total production of the domestic like product; and (2) more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the CVD petition), we considered the industry support data contained in the CVD petition with reference to the domestic like product as defined in the ''Scope of Investigation'' in Appendix I. To establish industry support, petitioners provided their production of the domestic like product for the year 2008, and compared this to total production of the domestic like product for the entire domestic industry. *See* Volume I of the AD/CVD petitions at 3–6, and Exhibit I–3, and Supplement to the AD/CVD petitions filed June 9, 2009, at 8–10, and Exhibits 3, 4, 5, 6, and 7. To estimate 2008 production of the domestic like product, the petitioners used their own data as well their own industry specific knowledge. Petitioners calculated total domestic production based on information provided by companies that are supporters of the CVD petition and that produce the domestic like product in the United States, as well as estimates of production of non-petitioning producers of the domestic like product. *See* Volume I of the AD/CVD petitions at 3–6, and Exhibit I–3, and Supplement to the AD/CVD petitions filed June 9, 2009, at 8–10, and Exhibits 3, 4, 5, 6, and 7. *See also CVD Initiation Checklist* at Attachment II, Industry Support.

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

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

Injury Test

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

Allegations and Evidence of Material Injury and Causation

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

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

Initiation of Countervailing Duty Investigation

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

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

We are including in our investigation the following programs alleged in the CVD petition to provide countervailable subsidies to producers/exporters of the subject merchandise:

A. GOC Provision of Inputs for Less Than Adequate Remuneration

1. Provision of Hot-Rolled Steel for Less than Adequate Remuneration
2. Provision of Steel Bar for Less than Adequate Remuneration
3. Provision of Steel Plate for Less than Adequate Remuneration
4. Provision of Wire Rod for Less than Adequate Remuneration

B. GOC Provision of Land-Use Rights to State-Owned Enterprises (SOEs) for Less Than Adequate Remuneration

C. GOC Income Tax Programs

1. ''Two Free, Three Half'' Program
2. Reduced Income Tax Rates for Export-Oriented Foreign-Invested Enterprises (FIEs)
3. Preferential Income Tax Policy for Enterprises in the Northeast Region
4. Forgiveness of Tax Arrears for Enterprises in the Old Industrial Bases of Northeast China
5. Tax Subsidies for FIEs in Specially Designated Geographic Areas
6. Local Income Tax Exemption and Reduction Programs for ''Productive'' FIEs
7. Income Tax Credits for Domestically Owned Companies Purchasing Domestically Produced Equipment

8. Income Tax Credits for FIEs Purchasing Domestically Produced Equipment
9. Preferential Tax Programs for FIEs Recognized as High or New Technology Enterprises

D. GOC VAT Programs

1. Import Tariff and Value Added Tax (VAT) Exemptions for Encouraged Industries Importing Equipment for Domestic Operations
2. VAT and Tariff Exemptions for Purchases of Fixed Assets Under the Foreign Trade Development Fund

E. Other GOC Programs

1. Loans and Interest Subsidies Provided Pursuant to the Northeast Revitalization Program
2. Grants to ''Third Line'' Military Enterprises

F. Provincial/Municipal Programs

1. Liaoning Province ''Five Points, One Line'' Program
2. Guangzhou City Famous Export Brands
3. Grants to Companies for ''Outward Expansion'' in Guangdong Province
4. Guangdong and Zhejiang Provinces Programs to Rebate Antidumping Fees

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

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

A. GOC Policy Lending and Directed Credit to Steel Producers
B. Discounted Loans and Interest Rate Subsidies under the Liaoning Province Framework
C. Grants to Steel Producers for Environmental Purposes.

For further information explaining why the Department is not initiating an investigation of these programs, *see CVD Initiation Checklist.*

Respondent Selection

For this investigation, the Department intends to select respondents based on U.S. Customs and Border Protection (CBP) data for U.S. imports during the POI (*i.e.,* calendar year 2008). We intend to release the CBP data under Administrative Protective Order (APO) to all parties with access to information protected by APO within five days of the announcement of the initiation of this investigation. Interested parties may submit comments regarding the CBP data and respondent selection within seven calendar days of publication of this notice. We intend to make our decision regarding respondent selection within 20 days of publication of this 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 website at *http://ia.ita.doc.gov/apo.*

Distribution of Copies of the CVD Petition

In accordance with section 702(b)(4)(A)(i) of the Act and 19 CFR 351.202(f), a copy of the public version of the petition has been provided to the representatives of the GOC. Because of the particularly large number of producers/exporters identified in the petition, the Department considers the service of the public version of the petition to the foreign producers/exporters satisfied by the delivery of the public version to the GOC, consistent with 19 CFR 351.203(c)(2).

ITC Notification

We have notified the ITC of our initiation, as required by section 702(d) of the Act.

Preliminary Determination by the ITC

The ITC will preliminarily determine, within 25 days after the date on which it receives notice of the initiation, whether there is a reasonable indication that imports of subsidized CSG from the PRC materially injure, or threaten material injury to, a U.S. industry. *See* section 703(a)(2) of the Act. A negative ITC determination will result in the investigation being terminated; *see* section 703(a)(1) of the Act. Otherwise, the investigation will proceed according to statutory and regulatory time limits.

This notice is issued and published pursuant to section 777(i) of the Act.

Dated: June 18, 2009.

Ronald K. Lorentzen,

Acting Assistant Secretary for Import Administration.

Appendix I—Scope of the Investigation

The products covered by this investigation are certain steel grating, consisting of two or more pieces of steel, including load-bearing pieces and cross pieces, joined by any assembly process, regardless of: (1) Size or shape; (2) method of manufacture; (3) metallurgy (carbon, alloy, or stainless); (4) the profile of the bars; and (5) whether or not they are galvanized, painted, coated, clad or plated. Steel grating is also commonly referred to as ''bar grating,'' although the components may consist of steel other than bars, such as hot-rolled sheet, plate, or wire rod.

The scope of this investigation excludes expanded metal grating, which is comprised of a single piece or coil of sheet or thin plate steel that has been slit and expanded, and does not involve welding or joining of multiple pieces of steel. The scope of this investigation also excludes plank type safety grating which is comprised of a single piece or coil of sheet or thin plate steel, typically in thickness of 10 to 18 gauge, that has been pierced and cold formed, and does not involve welding or joining of multiple pieces of steel.

Certain steel grating that is the subject of this investigation is currently classifiable in the Harmonized Tariff Schedule of the United States (''HTSUS'') under subheading 7308.90.7000. While the HTSUS subheading is provided for convenience and customs purposes, the written description of the scope of this investigation is dispositive.

[FR Doc. E9–15017 Filed 6–24–09; 8:45 am]

BILLING CODE 3510–DS–P

CONSUMER PRODUCT SAFETY COMMISSION

Submission for OMB Review; Comment Request—Requirements for Baby-Bouncers, Walker-Jumpers, and Baby-Walkers

AGENCY: Consumer Product Safety Commission.

ACTION: Notice.

SUMMARY: In the **Federal Register** of April 16, 2009 (74 FR 17638), the Consumer Product Safety Commission (CPSC or Commission) published a notice in accordance with provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) to announce the CPSC's intention to seek extension of approval of the collection of information in the requirements for baby-bouncers, walker-jumpers, and baby-walkers in regulations codified at 16 CFR 1500.18(a)(6) and 1500.86(a)(4).

No comments were received in response to that notice. Therefore, by publication of this notice, the Commission announces that it has submitted to the Office of Management and Budget (OMB) a request for extension of approval of that collection of information without change.

One CPSC regulation bans any product known as a baby-bouncer, walker-jumper, baby-walker or similar article if it is designed in such a way that exposed parts present hazards of amputations, crushing, lacerations, fractures, hematomas, bruises or other injuries to children's fingers, toes, or

other parts of the body. 16 CFR 1500.18(a)(6).

A second CPSC regulation establishes criteria for exempting baby-bouncers, walker-jumpers, and baby-walkers from the banning rule under specified conditions. 16 CFR 1500.86(a)(4). The exemption regulation requires certain labeling on these products and their packaging to identify the name and address of the manufacturer or distributor and the model number of the product. Additionally, the exemption regulation requires that records must be established and maintained for three years relating to testing, inspection, sales, and distribution of these products. The regulation does not specify a particular form or format for the records. Manufacturers and importers may rely on records kept in the ordinary course of business to satisfy the recordkeeping requirements if those records contain the required information.

If a manufacturer or importer distributes products that violate the banning rule, the records required by section 1500.86(a)(4) can be used by the manufacturer or importer and the CPSC: (i) To identify specific models of products that fail to comply with applicable requirements; and (ii) to notify distributors and retailers if the products are subject to recall.

Additional Information About the Request for Extension of Approval of a Collection of Information

Agency address: Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814.

Title of information collection: Requirements for Baby-Bouncers, Walker-Jumpers, and Baby-Walkers, 16 CFR 1500.18(a)(6) and 1500.86(a)(4).

Type of request: Extension of approval without change.

General description of respondents: Manufacturers and importers of baby-bouncers, walker-jumpers, and baby-walkers.

Estimated number of respondents: 34.

Estimated average number of hours per respondent: 2 hours per year for recordkeeping, and 1 hour per year for labeling.

Estimated number of hours for all respondents: 102 per year.

Estimated cost of collection for all respondents: $4,654.60 per year.

Comments: Comments on this request for extension of approval of information collection requirements should be captioned ''Baby-Bouncers; Paperwork Reduction Act'' and submitted by July 27, 2009 to (1) the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for CPSC, Office of Management and Budget, Washington, DC 20503; telephone: (202) 395–7340, and (2) by e-mail to *cpsc-os@cpsc.gov,* by facsimile to (301) 504–0127, or by mail to the Office of the Secretary, Consumer Product Safety Commission, 4330 East West Highway, Bethesda, Maryland 20814.

Copies of this request for extension of the information collection requirements and supporting documentation are available from Linda Glatz, Division of Policy and Planning, Office of Information Technology and Technology Services, Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814; telephone: (301) 504–7671 or by e-mail to *lglatz@cpsc.gov.*

Dated: June 19, 2009.

Alberta E. Mills,

Acting Secretary, Consumer Product Safety Commission.

[FR Doc. E9–14949 Filed 6–24–09; 8:45 am]

BILLING CODE 6355–01–P

CONSUMER PRODUCT SAFETY COMMISSION

Submission for OMB Review; Comment Request—Flammability Standards for Children's Sleepwear

AGENCY: Consumer Product Safety Commission.

ACTION: Notice.

SUMMARY: In the **Federal Register** of April 16, 2009, 74 FR 17636, the Consumer Product Safety Commission (CPSC or Commission) published a notice in accordance with provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) to announce the CPSC's intention to seek extension of approval of collections of information in the flammability standards for children's sleepwear and implementing regulations.

No comments were received in response to that notice. Therefore, by publication of this notice, the Commission announces that it has submitted to the Office of Management and Budget (OMB) a request for extension of approval of that collection of information without change.

The standards and regulations are codified as the Standard for the Flammability of Children's Sleepwear: Sizes 0 Through 6X (FF3–71), 16 CFR Part 1615; and the Standard for the Flammability of Children's Sleepwear: Sizes 7 Through 14 (FF5–74), 16 CFR Part 1616. The flammability standards and implementing regulations prescribe requirements for testing and recordkeeping by manufacturers and importers of children's sleepwear subject to the standards. The information in the records required by the regulations allows the Commission to determine if items of children's sleepwear comply with the applicable standard. This information also enables the Commission to obtain corrective actions if items of children's sleepwear fail to comply with the applicable standard in a manner which creates a substantial risk of injury.

Additional Information About the Request for Reinstatement of Approval of Collections of Information

Agency address: Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814.

Title of information collection: Standard for the Flammability of Children's Sleepwear: Sizes 0 Through 6X, 16 CFR Part 1615; Standard for the Flammability of Children's Sleepwear: Sizes 7 Through 14, 16 CFR Part 1616.

Type of request: Extension of approval without change.

General description of respondents: Manufacturers and importers of children's sleepwear in sizes 0 through 14.

Estimated number of respondents: 62.

Estimated average number of hours per respondent: 6,000 per year.

Estimated number of hours for all respondents: 372,000 per year.

Estimated cost of collection for all respondents: $20,415,360 per year.

Comments: Comments on this request for extension of approval of information collection requirements should be captioned ''Children's Sleepwear; Paperwork Reduction Act'' and submitted by July 27, 2009 to (1) the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for CPSC, Office of Management and Budget, Washington, DC 20503; telephone: (202) 395–7340, and (2) by e-mail to *cpsc-os@cpsc.gov,* by facsimile to (301) 504–0127, or by mail to the Office of the Secretary, Consumer Product Safety Commission, 4330 East West Highway, Bethesda, Maryland 20814.

Copies of this request for extension of the information collection requirements and supporting documentation are available from Linda Glatz, Division of Policy and Planning, Office of Information Technology and Technology Services, Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814; telephone: (301) 504–7671 or by e-mail to *lglatz@cpsc.gov.*

Dated: June 19, 2009.

Alberta E. Mills,

Acting Secretary, Consumer Product Safety Commission.

[FR Doc. E9–14950 Filed 6–24–09; 8:45 am]

BILLING CODE 6355–01–P

CONSUMER PRODUCT SAFETY COMMISSION

Submission for OMB Review; Comment Request—Testing and Recordkeeping Requirements Under the Standard for the Flammability (Open Flame) of Mattress Sets

AGENCY: Consumer Product Safety Commission.

ACTION: Notice.

SUMMARY: In the **Federal Register** of April 16, 2009 (74 FR 17636), the Consumer Product Safety Commission (CPSC or Commission) published a notice in accordance with provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), to announce the CPSC's intention to seek extension of approval of collections of information in the in the Standard for the Flammability (Open Flame) of Mattress Sets, 16 CFR part 1633. The standard prescribes a test to minimize or delay flashover when a mattress is ignited. The standard also requires manufacturers to test specimens of each of their mattress prototypes before mattresses based on that prototype may be introduced into commerce.

No comments were received in response to that notice. Therefore, by publication of this notice, the Commission announces that it has submitted to the Office of Management and Budget a request for extension of approval of those collections of information without change.

Additional Information About the Request for Reinstatement of Approval of Collections of Information

Agency address: Consumer Product Safety Commission,4330 East West Highway, Bethesda, MD 20814.

Title of information collection: Standard for the Flammability (Open Flame) of Mattress Sets, 16 CFR part 1633.

Type of request: Extension of approval without change.

General description of respondents: Manufacturers and importers of products subject to the flammability standards for mattresses.

Estimated number of respondents: 671.

Estimated average number of hours per respondent: 94.7 per year.

Estimated number of hours for all respondents: 63,521 per year.

Estimated cost of collection for all respondents: $1,700,000.

Comments: Comments on this request for extension of approval of information collection requirements should be captioned ''Flammability (Open Flame) of Mattress Sets; Paperwork Reduction Act,'' and submitted by July 27, 2009 to (1) the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for CPSC, Office of Management and Budget, Washington DC 20503; telephone: (202) 395–7340, and (2) by e-mail to *cpsc-os@cpsc.gov*, by facsimile to (301) 504–0127, or by mail to the Office of the Secretary, Consumer Product Safety Commission, 4330 East West Highway, Bethesda, Maryland 20814.

Copies of this request for extension of the information collection requirements and supporting documentation are available from Linda Glatz, Division of Policy and Planning, Office of Information Technology and Technology Services, Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814; telephone: (301) 504–7671 or by e-mail to *lglatz@cpsc.gov.*

Dated: June 19, 2009.

Alberta E. Mills,

Acting Secretary, Consumer Product Safety Commission.

[FR Doc. E9–14951 Filed 6–24–09; 8:45 am]

BILLING CODE 6355–01–P

CONSUMER PRODUCT SAFETY COMMISSION

Submission for OMB Review; Comment Request—Flammability Standards for Carpets and Rugs

AGENCY: Consumer Product Safety Commission.

ACTION: Notice.

SUMMARY: In the **Federal Register** of April 16, 2009 (74 FR 17637), the Consumer Product Safety Commission (CPSC or Commission) published a notice in accordance with provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), to announce the CPSC's intention to seek extension of approval of collections of information in regulations implementing two flammability standards for carpets and rugs. The regulations are codified at 16 CFR Parts 1630 and 1631, and prescribe requirements for testing and recordkeeping by persons and firms issuing guaranties of products subject to the Standard for the Surface Flammability of Carpets and Rugs and the Standard for the Surface Flammability of Small Carpets and Rugs.

No comments were received in response to that notice. Therefore, by publication of this notice, the Commission announces that it has submitted to the Office of Management and Budget a request for extension of approval of those collections of information without change.

Additional Information About the Request for Reinstatement of Approval of Collections of Information

Agency address: Consumer Product Safety Commission,4330 East West Highway, Bethesda, MD 20814.

Title of information collection: Standard for the Surface Flammability of Carpets and Rugs, 16 CFR Part 1630; Standard for the Surface Flammability of Small Carpets and Rugs, 16 CFR Part 1631.

Type of request: Extension of approval without change.

General description of respondents: Manufacturers and importers of products subject to the flammability standards for carpets and rugs.

Estimated number of respondents: 120.

Estimated average number of hours per respondent: 250 per year.

Estimated number of hours for all respondents: 30,000 per year.

Estimated cost of collection for all respondents: $1,646,400.

Comments: Comments on this request for extension of approval of information collection requirements should be captioned ''Carpets and Rugs; Paperwork Reduction Act,'' and submitted by July 27, 2009 to (1) the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for CPSC, Office of Management and Budget, Washington DC 20503; telephone: (202) 395–7340, and (2) by e-mail to *cpsc-os@cpsc.gov,* by facsimile to (301) 504–0127, or by mail to the Office of the Secretary, Consumer Product Safety Commission, 4330 East West Highway, Bethesda, Maryland 20814.

Copies of this request for extension of the information collection requirements and supporting documentation are available from Linda Glatz, Division of Policy and Planning, Office of Information Technology and Technology Services, Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814; telephone: (301) 504–7671 or by e-mail to *lglatz@cpsc.gov.*

Dated: June 19, 2009.

Alberta E. Mills,

Acting Secretary, Consumer Product Safety Commission.

[FR Doc. E9–14952 Filed 6–24–09; 8:45 am]

BILLING CODE 6355–01–P

DEPARTMENT OF DEFENSE

United States Air Force

Notice of Intent To Prepare an Environmental Impact Statement for Modification of the Condor 1 and Condor 2 Military Operations Areas Used by the 104th Fighter Wing of the Massachusetts Air National Guard

AGENCY: Air National Guard, Department of Defense.

ACTION: Notice of intent (NOI) to prepare an environmental impact statement.

SUMMARY: This notice replaces the posting in the **Federal Register** on June 17, 2009, Vol. 74, No. 115 with the corrected location of the public hearing from the Civic Center in Augusta, Maine. In accordance with the National Environmental Policy Act (NEPA) of 1969, as amended (*42 United States Code [U.S.C.] 4321–4347*), the Council on Environmental Quality (CEQ) NEPA Regulations (40 Code of Federal Regulations [CFR] parts 1500–1508), and the United States Air Force's (USAF) Environmental Impact Analysis Process (EIAP, 32 CFR part 989), the Air Force is issuing this notice to advise the public and other Federal agencies that the ANG intends to prepare an Environmental Impact Statement (EIS) for proposed modifications of the Condor 1 and Condor 2 Military Operations Areas (MOAs) used by the 104th Fighter Wing (FW) of the Massachusetts ANG (MAANG). The 104th FW is based at Barnes ANG Base in Westfield, Massachusetts. The study area for this EIS includes portions of Piscataquis, Somerset, Franklin, and Oxford counties in Maine and a portion of Coos County, New Hampshire.

The ANG and Federal Aviation Administration (FAA) completed an Environmental Assessment (EA) of this proposal in June 2008. However, in response to requests from elected officials and the general public, the ANG has elected to prepare an EIS. The ANG conducted five previous scoping meetings in the towns of Rumford, Mexico, Rangeley, and Farmington (2), Maine as part of the EA process; the previous scoping meetings are sufficient and follow-on scoping meetings are not deemed necessary. However, the Air Force requests formal written scoping comments from the public, State and local government agencies, as well as affected Federal agencies for 30 days after the publication date of this NOI, to ascertain if there are additional issues relevant to the range of actions, alternatives, and impacts to be examined in detail in the draft EIS.

The Condor 1 and 2 MOAs are centered approximately 200 nautical miles northeast of Barnes ANG Base. The altitudes of both MOAs currently extend from 7,000 feet above mean sea level (MSL) (between approximately 2,800 feet and 6,300 feet above ground level [AGL]) up to 18,000 ft MSL. Condor 1 MOA is located immediately west of Condor 2 MOA. The Condor 1 and 2 MOAs are currently utilized by aircraft from the MAANG, the Vermont ANG, the United States Air Force, and the United States Navy. Units from these services utilize a variety of aircraft including the F–15, F–16, KC–10, KC–135, and P–3. Of these aircraft, F–15 and F–16 operations currently constitute 86–88% of annual operations in the Condor 1 and 2 MOAs.

The Ready Aircrew Program (RAP) is the United States Air Force's continuation training program designed to focus training or develop capabilities needed to accomplish a unit's core missions. The RAP requirements for every qualified F–15 and F–16 pilot include Low Altitude Awareness Training (LOWAT) which includes realistic, mission oriented air-to-air operations while in a LOWAT-certified low-altitude block at or below 1,000 feet AGL, as well as Low Slow/Visual Identification intercept and Slow Shadow intercept training missions. These training missions require pilots to identify and engage aerial targets at low altitude, and perform low altitude navigation, tactical formation, and defensive maneuvering to avoid or negate threats.

In order to be Combat Mission Ready, all F–15 and F–16 pilots are required to demonstrate proficiency in these skills down to 500 feet AGL, over land, on a regular basis. Pilot operational training standards require missions to be accomplished in the low, medium, and high altitude regimes. As currently defined, the floors of Condor 1 and 2 MOAs are too high to allow for the effective and efficient completion of required training. The purpose of the Proposed Action is to rectify these deficiencies and provide the 104th FW with adequate training airspace in a safe training environment to fulfill its mission.

The 104 FW proposes to combine the Condor 1 and 2 MOAs, divide the combined MOA into Condor Low MOA and Condor High MOA, and lower the flight floor of the proposed Condor Low MOA from 7,000 feet MSL to 500 feet AGL. Condor Low MOA would extend from 500 feet AGL up to, but not include, 7,000 feet MSL. Condor High MOA would extend from 7,000 feet MSL up to, but not include, 18,000 MSL. As part of the EIAP, and in accordance with the requirements of NEPA, the EIS will consider potential alternatives to the Proposed Action. Other Alternatives to be considered include lowering the floor of Condor 1 MOA and leaving Condor 2 MOA unchanged, completing low-altitude training in other airspace in the Northeast, deploying to conduct low-altitude training, and no action.

The draft EIS will be made available for a 45-day public review and comment period. The Air Force will sponsor a public hearing on the draft EIS in mid August 2009 at the University of Maine, Farmington, ME. Notification of hearing time and related logistics will be made via local public notifications.

No additional meetings are planned at this time. In addition to comments received at the public hearing, any written comments on the draft EIS received at the address below by October 1, 2009, will be considered in the preparation of this EIS.

FOR FURTHER INFORMATION CONTACT: Major Stephen R. Lippert NGB/A 7AM, Program Manager, 3500 Fetchet Avenue, Andrews AFB, MD 20762–5157, Ph: (301) 836–8167 *stephen.lippert@ang.af.mil.*

Bao-Anh Trinh,

Air Force Federal Register Liaison Officer.

[FR Doc. E9–14976 Filed 6–24–09; 8:45 am]

BILLING CODE 5001–05–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP09–431–000]

Texas Eastern Transmission, LP; Notice of Application

June 18, 2009.

Take notice that on June 11, 2009, Texas Eastern Transmission, LP (Texas Eastern), 5400 Westheimer Court, Houston, TX 77056–5310 filed an application in Docket No. CP09–431–000 an application pursuant to section 7 of the Natural Gas Act (NGA) requesting permission and approval to (1) abandon by removal two Pratt-Whitney units with a total combined horsepower (HP) of 5,500 and related appurtenances at the Hanover

Compressor Station in Morris County, New Jersey (Hanover Station), and uprate to 6,500 HP the existing Solar compressor unit at the Hanover Station such that the certificated HP at the station is reduced from 9,200 HP to 6,500, and (2) abandon in place one 2,000 HP compressor unit and related appurtenances located at the Eagle Compressor Station (Station No. 25) in Chester County, Pennsylvania (Eagle Station), all as more fully set forth in the application which is on file with the Commission and open to public inspection. This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Texas Eastern states that the two Pratt-Whitney compressor units at the Hanover Station and the unit at the Eagle Station are outdated, and in conjunction with approval of the requested uprate of the Solar unit at the Hanover Station, are not needed for Texas Eastern to continue to meet its current firm service obligations. Texas Eastern further states that there will be no termination or reduction in service to any existing firm customer of Texas Eastern as a result of the proposed uprate and abandonments proposed in the application. According to Texas Eastern, the proposed abandonment will not affect Texas Eastern's existing tariffs. Texas Eastern states that the proposed abandonments will reduce Texas Eastern's current repair and maintenance expenses and eliminate the need for future capital expenditures at the stations associated with the abandoned units. As a result, Texas Eastern submits that the requested uprate and abandonment authorization is consistent with the public convenience and necessity.

In order to accomplish the abandonment at the Eagle Station, Texas Eastern proposes to abandon in place the Westinghouse Type CS Frame 2–36–26 compressor and associated piping.

No work is required in order to accomplish the proposed uprate of the Solar unit at the Hanover Station. In order to accomplish the abandonment of the Pratt-Whitney units at the Hanover Station, Texas Eastern proposes to (1) Remove the two units and the concrete foundation and piers; (2) remove all associated valves, gas piping, lube oil piping and control panels associated with the two units; and (3) complete rehabilitation.

Any questions regarding this application should be directed to: Lisa A. Moore, General Manager, Rates and Certificates, Texas Eastern Transmission, LP, PO Box 1642, Houston, Texas 77251–1642, at (713) 627–4102.

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

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

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

Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link at *http://www.ferc.gov.* The Commission strongly encourages intervenors to file electronically. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

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

Kimberly D. Bose,

Secretary.

[FR Doc. E9–14934 Filed 6–24–09; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. PF09–3–000; BLM Reference No. UTU–87295]

Magnum Gas Storage, LLC; Notice of Intent To Prepare an Environmental Assessment for the Proposed Magnum Gas Storage Project and Draft Pony Express Resource Management Plan Amendment for the Bureau of Land Management, Request for Comments on Environmental Issues, and Notice of Public Scoping Meetings

June 18, 2009.

The staff of the Federal Energy Regulatory Commission (FERC or Commission) will prepare an environmental assessment (EA) and the staff of the Bureau of Land Management (BLM) will prepare a Draft Pony Express Resource Management Plan Amendment (Draft RMP Amendment). The EA and the Draft RMP Amendment will discuss the environmental impacts of the construction and operation of a new interstate natural gas storage facility and pipeline lateral, located in central Utah, proposed by Magnum Gas Storage, LLC (MGS) as part of its Magnum Gas Storage Project (Project).

This notice announces the opening of the scoping process that will be used to gather input from the public and

interested agencies on the Project. Your input will help the Commission staff and cooperating agencies determine which issues need to be evaluated in the EA/Draft RMP Amendment. The staff will also use the scoping process to determine whether preparation of an environmental impact statement is required for this Project based on the anticipated level of impacts. Please note that the scoping period for this Project will close on July 27, 2009.

Comments may be submitted in written form or verbally. Further details on how to submit written comments are provided in the Public Participation section of this notice. In lieu of or in addition to sending written comments, you are invited to attend public scoping meetings scheduled in the Project area where you can verbally comment on the proposed Project. These meetings are scheduled as follows:

Date	Location
Tuesday, July 7, 2009 at 6 p.m. (MST)	Juab County School District, 346 E. 600 N. Street, Nephi, UT 84648.
Wednesday, July 8, 2009 at 6 p.m. (MST)	Millard County School District, 285 E. 400 N., Delta, UT 84624.

Interested groups and individuals are encouraged to attend the meetings and to present comments on the environmental issues they believe should be addressed in the EA/Draft RMP Amendment. A transcript of the meeting will be generated so that your comments will be accurately recorded.

The FERC will be the lead federal agency for the preparation of the EA and the BLM will be the lead federal agency for the preparation of the Draft RMP Amendment. The EA will satisfy the requirements of the National Environmental Policy Act (NEPA) and will be used by the FERC to consider the environmental impacts that could result if it issues MGS a Certificate of Public Convenience and Necessity under section 7 of the Natural Gas Act.

The BLM is participating as a cooperating agency in the preparation of the EA to satisfy its respective NEPA and planning responsibilities since the Project would cross federal land under the jurisdiction of the Fillmore and Salt Lake Field Offices in Utah. Under section 185(f) of the Mineral Leasing Act of 1920, the BLM has the authority to issue right-of-way grants for all affected federal lands. This would be in accordance with Title 43 Code of Federal Regulations (CFR) Parts 2800 and 2880, subsequent 2800 and 2880 Manuals, and Handbook 2801–1. As a cooperating agency, the BLM would adopt the EA per Title 40 CFR 1506.3 to meet its responsibilities under NEPA in considering MGS's application for a Right-of-Way Grant and Temporary Use Permit for the portion of the Project on federal land. In addition, the U.S. Forest Service (FS) will participate as a cooperating agency because FS land may be impacted. The concurrence or non-concurrence of the FS would be considered in the BLM's decision as well as impacts on resources and programs and the proposed Project's conformance with land use plans as well as the proposed land use plan amendment for the Pony Express RMP.

With this notice, the FERC staff is asking other federal, state, local, and tribal agencies with jurisdiction and/or special expertise with respect to environmental issues to cooperate with us in the preparation of the EA. In addition, the BLM is asking other federal, state, local, and tribal agencies to cooperate in the review of the plan amendment process. These agencies may choose to participate once they have evaluated MGS's proposal relative to their responsibilities. Agencies that would like to request cooperating agency status should follow the instructions for filing comments described later in this NOI.

This notice is being sent to affected landowners; federal, state, and local government representatives and agencies; environmental and public interest groups; Native American tribes; other interested parties in this proceeding; and local libraries and newspapers. We [1] encourage government representatives to notify their constituents of this planned Project and encourage them to comment on their areas of concern.

If you are a landowner receiving this notice, you may be contacted by a pipeline company representative about the acquisition of an easement to construct, operate, and maintain the proposed facilities. The pipeline company would seek to negotiate a mutually acceptable agreement. However, if the Project is approved by the Commission, that approval conveys with it the right of eminent domain. Therefore, if easement negotiations fail to produce an agreement, the pipeline company could initiate condemnation proceedings in accordance with state law.

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

Summary of the Proposed Project

The proposed development of the Project would include construction and operation of an underground natural gas storage field with a capacity of 64 billion cubic feet (Bcf) on state and private land near the town of Delta in Millard County; Utah, and a 60-mile, 36-inch-diameter natural gas pipeline lateral linking the gas storage facility with existing interstate gas transmission pipelines at an interconnect site north of Goshen, Utah. The pipeline lateral could potentially cross private, state, FS and BLM public lands in Millard, Juab, and Utah Counties.

The Project would consist of the following facilities:

- Eight gas storage salt caverns each having a working gas capacity of 8 Bcf, 5.6 Bcf working capacity, and supported by 2.4 Bcf base gas;
- Approximately 60 miles of 36-inch-diameter natural gas pipeline;
- Water supply wells and associated water supply pipelines;
- Injection/withdrawal wells;
- Leaching facilities for solution mining and creation of caverns;
- Brine evaporation ponds required for brine management;
- Surface facilities for gas storage that would include central compression and gas handling facilities, valving and dehydration facilities, pig launchers/receivers and an operations center;
- Electric transmission lines;
- Meter and regulator stations, and
- A 4-inch-diameter natural gas supply pipeline extending approximately 9.3 miles to the storage site for temporary power generation.

The locations of the Project facilities are shown in Appendix 1.[2]

[1] ''We,'' ''us,'' and ''our'' refer to the environmental staff of the Office of Energy Projects (OEP).

[2] The appendices referenced in this notice are not being printed in the **Federal Register**. Copies of all appendices are available on the Commission's Web site at the ''eLibrary'' link or from the Commission's Public Reference Room, 888 First Street, NE., Washington, DC 20426, or call (202) 502–8371. For

Land Requirements for Construction

The proposed storage field site would be comprised of both state and private land totaling approximately 2,050 acres. Approximately 710 acres would be required for permanent facilities and 40 acres for temporary construction. Construction of the proposed pipeline would result in a temporary disturbance of approximately 708 acres.

The proposed 36-inch-diameter pipeline would generally be installed on BLM, state, and private land within a 100-foot-wide construction right-of-way. At certain locations (e.g., road, railroad, and waterbody crossings), extra workspaces would be required. MGS would retain a 50-foot-wide permanent right-of-way for the pipeline.

The EA/NEPA Process

NEPA requires the Commission to take into account the environmental impacts that could result from an action whenever it considers the issuance of a Certificate of Public Convenience and Necessity. The EA is being prepared to serve that purpose. NEPA also requires Commission staff and its cooperators to discover and address concerns the public may have about the proposal. This process is referred to as ''scoping.'' The main goal of the scoping process is to focus the analysis in the EA on the important environmental issues. By this NOI, the Commission and BLM staff request public comments on any issues that may arise during the scoping period and need to be addressed in the EA/Draft RMP Amendment. All scoping comments received will be considered during the preparation of the EA/Draft RMP Amendment.

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

- Geology and soils;
- Mineral resources;
- Land use (recreation, aesthetics/visual resource management, special designations, and livestock grazing);
- Water resources, riparian zones, and wetlands;
- Cultural resources;
- Vegetation;
- Fisheries and wildlife;
- Endangered and threatened species;
- Air quality and noise; and
- Public safety.

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

Although no formal application has been filed, we have already initiated our NEPA review under the Commission's Pre-filing Process. The purpose of the Pre-filing Process is to seek public and agency input early in the Project planning phase and encourage early involvement of interested stakeholders in a manner that allows for the early identification and resolution of environmental issues before an application is filed with the FERC. The BLM has agreed to conduct its work with all interested stakeholders to identify and attempt to address issues before and throughout the application process.

As part of our Pre-filing Process review, FERC has begun to contact some federal and state agencies to discuss their involvement in the scoping process and the preparation of the EA. In addition, representatives from the FERC participated in a public open house sponsored by MGS in Delta, Utah on March 3, 2009, to explain the environmental review process to interested stakeholders. On April 8, 2009, the FERC conducted an interagency meeting with agencies and MGS in Salt Lake City, Utah. The purpose of the meeting was to explain the FERC's process and solicit comments and concerns about the MGS's Project from other jurisdictional agencies.

Our independent analysis of the issues will be discussed in the EA. The EA/Draft RMP Amendment will be published and mailed to federal, state, and local agencies, public interest groups, interested individuals, affected landowners, newspapers, libraries, and the Commission's official service list for this proceeding.

A 30-day review and comment period will be provided when the EA/Draft RMP Amendment are published. The Proposed Plan Amendment for the Pony Express RMP will be provided a 30-day protest period at that time, commensurate with a 60-day Governor's Consistency Review in accordance with Title 43 CFR Part 1600. All comments on the EA will be considered before the recommendations to the Commission are made. To ensure your comments are considered, please carefully follow the instructions in the Public Participation section below.

The BLM's Plan Amendment Process

As discussed above, the EA will analyze the impacts of amending the Pony Express RMP to accommodate the Proposal. An amendment is required because the Pony Express RMP (1990) does not currently allow for major rights-of-way to be placed outside of identified utility corridors. Publication of this notice formally initiates the plan amendment process and begins the scoping process. An interdisciplinary approach will be used to develop the EA in order to consider a variety of resource issues and concerns identified. An amendment to the Pony Express RMP will be based upon the following planning criteria:

- The amendment will be completed in compliance with the Federal Land Policy and Management Act (FLPMA), NEPA and all other relevant Federal law, Executive Orders and management policies of the BLM;
- Where existing planning decisions are still valid, those decisions will remain unchanged and be incorporated into the new amendment;
- The amendment will recognize valid existing rights; and
- Native American Tribal consultations will be conducted in accordance with policy and tribal concerns will be given due consideration. The planning process would include the consideration of any impacts on Indian trust assets.

The BLM regulations in Title 43 CFR Part 1600 and the NEPA process detailed in the Council on Environmental Quality regulations in Title 40 CFR Parts 1500–1508 guide preparation of plan amendments. The process is tailored to the anticipated level of public interest and potential for significant impacts.

Plan amendments (see Title 43 CFR Part 1610.5–5) change one or more of the terms, conditions, or decisions of an approved land use plan. These decisions may include those relating to desired outcomes; measures to achieve desired outcomes, including resource restrictions; or land tenure decisions. Plan amendments are required to consider any proposal or action that does not conform to the plan.

An applicant may request that the BLM amend the land use plan to allow an otherwise non-conforming proposal. The amendment and any implementation actions (*i.e.,* granting the Right-of-Way and Temporary Use Permit) may be considered together. However, at the decision stage, the land use plan decisions must be separated from the implementation decisions.

Currently Identified Environmental Issues

The EA will discuss impacts that could occur as a result of the construction and operation of the proposed Project. We have already identified several issues that we think

instructions on connecting to eLibrary refer to the last page of this notice. Copies of the appendices were sent to all those receiving this notice in the mail.

deserve attention based on a preliminary review of the proposed facilities, comments made to us at the MGS's open house, preliminary consultations with other agencies, and the environmental information provided by MGS. This preliminary list of issues may be changed based on your comments and our analysis. Issues include, but are not limited to:

- Cultural resources that may be affected by the Project;
- Potential impacts on streams, riparian zones, and wetlands;
- Rights-of-way required for proposed pipeline crossing of federal lands managed by the BLM and the FS;
- Cumulative impacts of the proposed facilities combined with past, present, and reasonable foreseeable Projects; and
- Assessment of alternatives, including alternative routes, that would avoid or reduce impacts on private and federal lands.

Public Participation

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

For your convenience, there are three methods, which you can use to submit written comments to the Commission. In all instances please reference the Project docket numbers PF09–3–000 with your submission. The Commission encourages electronic filing of comments and has dedicated eFiling expert staff available to assist you at 202–502–8258 or *efiling@ferc.gov.*

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

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

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

Label one copy of the comments for the attention of Gas Branch 2, PJ–11.2.

You may also submit oral comments at one of two public scoping meetings identified earlier in this NOI.

Becoming an Intervenor

Once MGS formally files its applications with the Commission, you may want to become an ''intervenor,'' which is an official party to the proceeding. Intervenors play a more formal role in the process and are able to file briefs, appear at hearings, and be heard by the courts if they choose to appeal the Commission's final ruling. An intervenor formally participates in a Commission proceeding by filing a request to intervene. Instructions for becoming an intervenor are included in the User's Guide under the ''e-filing'' link on the Commission's Web site. Please note that you may not request intervenor status at this time. You must wait until formal applications are filed with the Commission.

Environmental Mailing List

An effort is being made to send this notice to all individuals, organizations, and government entities interested in and/or potentially affected by the proposed Project. This includes all landowners who are potential right-of-way grantors, whose property may be used temporarily for Project purposes, or who own homes within certain distances of aboveground facilities (as defined in the Commission's regulations).

If you do not want to send comments at this time but still want to remain on our mailing list, please return the Information Request (Appendix 2). If you do not return the Information Request, you will be taken off the mailing list.

Availability of Additional Information

Additional information about the Project is available from the Commission's Office of External Affairs, at 1–866–208–FERC or on the FERC Internet Web site (*http://www.ferc.gov*) using the eLibrary link. Click on the eLibrary link, click on ''General Search'' and enter the docket number excluding the last three digits (*i.e.,* PF09–3) in the Docket Number field. Be sure you have selected an appropriate date range. For assistance, please contact FERC Online Support at *FercOnlineSupport@ferc.gov* or toll free at 1–866–208–3676, or for TTY, contact (202) 502–8659. The eLibrary link also provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rulemakings.

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

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

Kimberly D. Bose,

Secretary.

[FR Doc. E9–14933 Filed 6–24–09; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL09–59–000]

Buckeye Power, Inc., on Behalf of Itself and Members; Notice of Filing

June 18, 2009.

Take notice that on June 10, 2009, Buckeye Power, Inc. (Buckeye), on behalf of itself and its member electric distribution cooperatives (members),[1]

[1] Adams Rural Electric Cooperative, Inc., Buckeye Rural Electric Cooperative, Inc., Butler Rural Electric Cooperative, Inc., Carroll Electric Cooperative, Inc., Consolidated Electric Cooperative, Inc., Darke Rural Electric Cooperative, Inc., Firelands Electric Cooperative, Inc., The Frontier Power Company, Ouernsey-Mnskingum Electric Cooperative, Inc., Hancock-Wood Electric Cooperative, Inc., Holmes-Wayne Electric Cooperative, Inc., Licking Rural Electrification, Inc., Logan County Cooperative Power and Light Association, Inc., Lorain-Medina Rural Electric Cooperative, Inc., Mid-Ohio Energy Cooperative. Inc., Midwest Electric, Inc., North Central Electric Cooperative, Inc., North Western Electric Cooperative, Inc., Paulding-Putnam Electric Cooperative, Inc., Pioneer Rural Electric Cooperative, Inc., South Central Power Company, Tricounty Rural Electric Cooperative, Inc., Union Rural Electric Cooperative, Inc., and Washington Electric Cooperative, Inc.

filed a request for waiver of certain Commission regulations concerning purchases from and sales to qualifying cogeneration and small power production facilities (QFs). Buckeye also proposes that it assume its members' obligation to purchase electric energy from QFs, and that its members assume Buckeye's obligation to sell electric energy to QFs, under sections 292.303(a) and 292.303(b), respectively, of the Commission's regulations.

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

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

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

Comment Date: 5 p.m. Eastern Time on July 10, 2009.

Kimberly D. Bose,

Secretary.

[FR Doc. E9–14935 Filed 6–24–09; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP09–427–000]

Columbia Gas Transmission, LLC; Notice of Request Under Blanket Authorization

June 18, 2009.

Take notice that on June 4, 2009, Columbia Gas Transmission, LLC (Columbia), 5151 San Felipe, Suite 2500, Houston, Texas 77056, filed a prior notice request pursuant to sections 157.205, 157.208, and 157.216 of the Commission's regulations under the Natural Gas Act (NGA) and Columbia's blanket certificate issued in Docket No. CP83–76–000, for NGA certification to construct, uprate, replace, relocate, and abandon certain natural gas facilities, all as more fully set forth in the application, which is on file with the Commission and open to public inspection. The filing may also be viewed on the Web at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC at *FERCOnlineSupport@ferc.gov* or call toll-free, (866) 208–3676 or TTY, (202) 502–8659.

Columbia states that Range Resources Appalachia LLC (Range Resources) has requested Columbia to transport 150,000 dekatherms per day (Dth/d) of natural gas from Range Resources' production fields in the Marcellus Shale in southwestern Pennsylvania to Leach, Kentucky. Columbia asserts that, as a result of that request and to meet the market demands in the Marcellus Shale region, it has determined that it will need to make certain modifications to its pipeline system in Washington and Greene Counties, Pennsylvania. Columbia states that it will: (i) Isolate a portion of its transmission Line 1570 from Sharp Farm MS to Waynesburg Compressor Station; (ii) provide alternate sources of supply to continue service to the markets currently being served from Line 1570; and (iii) make minor modifications to other Columbia facilities in order to accommodate those alternate sources of supply.

More specifically, Columbia seeks approval to: (i) Increase the maximum allowable operating pressure (MAOP) on approximately 1.3 miles of 4-inch pipeline on Line 10331 from 206 pounds per square inch gauge (psig) to 330 psig; (ii) increase the MAOP on approximately 13.4 miles of 10-inch pipeline on Line 40 from 150 psig to 330 psig; (iii) increase the MAOP on approximately 0.82 miles of 8-inch pipeline of Line 708 from 280 psig to 330 psig; (iv) replace approximately 0.4 miles of 4-inch pipeline and appurtenances with a like amount of 10-inch pipeline and appurtenances on Line 36; (v) replace approximately 2.8 miles of 3-inch pipeline and appurtenances with a like amount of 10-inch pipeline and appurtenances on Line 628; (vi) replace approximately 0.07 miles of 10-inch pipeline and appurtenances with a like amount of 10-inch pipeline and appurtenances on Line 40; (vii) construct approximately 1.8 miles of 12-inch pipeline and appurtenances to extend Line 7215; (viii) construct approximately 1.14 miles of 6-inch pipeline and appurtenances on Line 10366; (ix) abandon the pipeline segments being replaced; and (x) abandon 23 mainline taps. Columbia estimates the cost associated with the construction of the subject facilities as approximately $16,500,000.

Any questions regarding the application should be directed to Frederic J. George, Senior Counsel, Columbia Gas Transmission, LLC, PO Box 1273, Charleston, West Virginia 22030–0146, at (304) 357–2359.

Any person may, within 60 days after the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention. Any person filing to intervene or the Commission's staff may, pursuant to § 157.205 of the Commission's regulations under the NGA (18 CFR 157.205), file a protest to the request. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the NGA.

The Commission strongly encourages electronic filings of comments, protests, and interventions via the Internet in lieu of paper. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site (*http://www.ferc.gov*) under the ''e-Filing'' link.

Kimberly D. Bose,

Secretary.

[FR Doc. E9–14937 Filed 6–24–09; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. OR09–5-000]

Enbridge Energy, Limited Partnership; Notice of Supplement to Facilities Surcharge Settlement

June 18, 2009.

Take notice that on February 27, 2009, Enbridge Energy, Limited Partnership (Enbridge Energy), with the support of the Canadian Association of Petroleum Producers, submitted a Supplement to the Facilities Surcharge Settlement (Supplemental Settlement) approved by the Commission on June 30, 2004, in Docket No. OR04–2–000. *Enbridge Energy, Limited Partnership,* 107 FERC ¶ 61,336 (2004).

Initial comments on the Supplemental Settlement should be filed on or before June 29, 2009. Reply comments should be filed on or before July 6, 2009.

Kimberly D. Bose,

Secretary.

[FR Doc. E9–14936 Filed 6–24–09; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OAR–2003–0073, FRL–8923–2]

Agency Information Collection Activities; Proposed Collection; Comment Request; Distribution of Offsite Consequence Analysis Information Under Section 112(r)(7)(H) of the Clean Air Act (CAA). EPA ICR No. 1981.04, OMB Control No. 2050–0172

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*), this document announces that EPA is planning to submit a request to renew an existing approved Information Collection Request (ICR) to the Office of Management and Budget (OMB). This ICR is scheduled to expire on January 31, 2010. Before submitting the ICR to OMB for review and approval, EPA is soliciting comments on specific aspects of the proposed information collection as described below.

DATES: Comments must be submitted on or before August 24, 2009.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–OAR–2003–0073 by one of the following methods:

- *http://www.regulations.gov:* Follow the on-line instructions for submitting comments.
- *E-mail: a-and-r-Docket@epa.gov.*
- *Fax:* (202) 566–9744.
- *Mail:* Air Docket, Environmental Protection Agency, Mailcode: 2822T, 1200 Pennsylvania Ave., NW., Washington, DC 20460.
- *Hand Delivery:* Docket Center, EPA West Bldg, Room 3334, 1301 Constitution Avenue, NW., Washington DC 20460. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–HQ–OAR–2003–0073. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *http://www.regulations.gov* or e-mail. The *http://www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *http://www.regulations.gov* your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm.*

FOR FURTHER INFORMATION CONTACT: Sicy Jacob, Office of Emergency Management, Mail Code 5104A, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; *telephone number:* (202) 564–8019; *fax number:* (202) 564–2620; *e-mail address: jacob.sicy@epa.gov.*

SUPPLEMENTARY INFORMATION:

How Can I Access the Docket and/or Submit Comments?

EPA has established a public docket for this ICR under Docket ID No. EPA–HQ–OAR–2003–0073, which is available for online viewing at *http://www.regulations.gov,* or in person viewing at the Air Docket in the EPA Docket Center (EPA/DC), EPA West, Room 3334, 1301 Constitution Ave., NW., Washington, DC. The EPA/DC Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is 202–566–1744, and the telephone number for the Air Docket is 202–566–9744.

Use *http://www.regulations.gov* to obtain a copy of the draft collection of information, submit or view public comments, access the index listing of the contents of the docket, and to access those documents in the public docket that are available electronically. Once in the system, select ''search,'' then key in the docket ID number identified in this document.

What Information Is EPA Particularly Interested in?

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

(i) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility;

(ii) Evaluate the accuracy of the Agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(iii) Enhance the quality, utility, and clarity of the information to be collected; and

(iv) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses. In particular, EPA is requesting comments from very small businesses (those that employ less than 25) on examples of specific additional efforts that EPA could make to reduce the paperwork burden for very small businesses affected by this collection.

What Should I Consider When I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible and provide specific examples.
2. Describe any assumptions that you used.
3. Provide copies of any technical information and/or data you used that support your views.
4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.
5. Offer alternative ways to improve the collection activity.
6. Make sure to submit your comments by the deadline identified under **DATES**.
7. To ensure proper receipt by EPA, be sure to identify the docket ID number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

What Information Collection Activity or ICR Does This Apply to?

Docket ID No. EPA–HQ–OAR–2003–0073.

Affected entities: Entities potentially affected by this action are States, local agencies and members of the public.

Title: Distribution of Offsite Consequence Analysis Information under Section 112(r)(7)(H) of the Clean Air Act (CAA).

ICR number: EPA ICR No. 1981.04, OMB Control No. 2050–0172.

ICR status: This ICR is currently scheduled to expire on January 31, 2010. An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information, unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in title 40 of the CFR, after appearing in the **Federal Register** when approved, are listed in 40 CFR part 9, are displayed either by publication in the **Federal Register** or by other appropriate means, such as on the related collection instrument or form, if applicable. The display of OMB control numbers in certain EPA regulations is consolidated in 40 CFR part 9.

Abstract: This ICR is the renewal of the ICR developed for the final rule, *Accidental Release Prevention Requirements; Risk Management Programs Under the Clean Air Act Section 112(r)(7); Distribution of Off-Site Consequence Analysis Information.* CAA section 112(r)(7) required EPA to promulgate reasonable regulations and appropriate guidance to provide for the prevention and detection of accidental releases and for responses to such releases. The regulations include requirements for submittal of a risk management plan (RMP) to EPA. The RMP includes information on offsite consequence analyses (OCA) as well as other elements of the risk management program.

On August 5, 1999, the President signed the Chemical Safety Information, Site Security, and Fuels Regulatory Relief Act (CSISSFRRA). The Act required the President to promulgate regulations on the distribution of OCA information (CAA section 112(r)(7)(H)(ii)). The President delegated to EPA and the Department of Justice (DOJ) the responsibility to promulgate regulations to govern the dissemination of OCA information to the public. The final rule was published on August 4, 2000 (65 FR 48108). The regulations imposed minimal requirements on the public, state and local agencies that request OCA data from EPA. The state and local agencies who decide to obtain OCA information must send a written request on their official letterhead to EPA certifying that they are covered persons under Public Law 106–40, and that they will use the information for official use only. EPA will then provide OCA data to those agencies as requested. The rule authorizes and encourages state and local agencies to set up reading rooms. The local reading rooms would provide read-only access to OCA information for all the sources in the LEPC's jurisdiction and for any source where the vulnerable zone extends into the LEPC's jurisdiction.

Members of the public requesting to view OCA information at federal reading rooms would be required to sign in and self certify. If asking for OCA information from federal reading rooms for the facilities in the area where they live or work, they would be required to provide proof that they live or work in that area. Members of the public are required to give their names, telephone number, and the names of the facilities for which OCA information is being requested, when they contact the central office to schedule an appointment to view OCA information.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR chapter 15.

The EPA would like to solicit comments to:

(i) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(ii) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(iii) enhance the quality, utility, and clarity of the information to be collected; and

(iv) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Burden Statement: The burden and costs stated below are from the current approved ICR. EPA estimates a total of 3,270 hours (annually) for local agencies requesting OCA data from EPA and providing read-only access to the public. For the state agencies, the total annual burden for requesting OCA data from EPA and providing read-only access to the public is 3,816 hours. For the public to display photo identification, sign a sign-in sheet, certify that the individual has not received access to OCA information for more than 10 stationary sources for that calendar month, and to request information from the vulnerable zone indicator system (VZIS), EPA estimates a total of 8,754 hours annually. The total burden for the members of the public, state and local agencies is 15,840 hours and $413,380 annually (47,520 hours for three years and $1,240,140).

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements which have subsequently changed; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

The ICR provides a detailed explanation of the Agency's estimate, which is only briefly summarized here:

Respondents/Affected Entities: State and local agencies; members of the public.

Estimated Number of Respondents: 3,975.

Frequency of Response: One.

Estimated Total Annual Hour Burden: 9,595.

Estimated Total Annual Cost: $296,603.

What Is the Next Step in the Process for This ICR?

EPA will consider the comments received and amend the ICR as appropriate. The final ICR package will then be submitted to OMB for review and approval pursuant to 5 CFR 1320.12. At that time, EPA will issue another **Federal Register** notice pursuant to 5 CFR 1320.5(a)(1)(iv) to announce the submission of the ICR to OMB and the opportunity to submit additional comments to OMB. If you have any questions about this ICR or the approval process, please contact the technical person listed under **FOR FURTHER INFORMATION CONTACT**.

Dated: June 9, 2009.

Deborah Y. Dietrich,

Director, Office of Emergency Management.

[FR Doc. E9–14995 Filed 6–24–09; 8:45 am]

BILLING CODE 6560–50–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 July 13, 2009.

A. Federal Reserve Bank of Cleveland (Nadine Wallman, Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101–2566:

1. The Hillyer Family Control Group and related controlling interests, which consist of Hudson Hillyer, Hudson Hillyer Trust (Hudson Hillyer Trustee), Marie Hillyer Trust, (Hudson Hillyer Trustee), Carole Hillyer, Majorie Shelley, David Shelley, Blair Hillyer, Brad Hillyer, Beth Hillyer, Rebecca Hillyer, Brett Hillyer, Aaron Hillyer, Alec Hillyer, Katherine Hillyer, Jacob Hillyer, and The Clay City Pipe Company, The Bowerston Shale Company, and Fab Ohio; to acquire shares of FNB, Inc., Dennison, Ohio, and thereby acquire shares of First National Bank, Dennison, Ohio.

Board of Governors of the Federal Reserve System, June 22, 2009.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. E9–15006 Filed 6–24–09; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

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

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

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

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than July 21, 2009.

A. Federal Reserve Bank of Chicago (Colette A. Fried, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690-1414:

1. Prairieland Bancorp Employee Stock Ownership Plan and Trust, Bushnell, Illinois, to increase its ownership to at least 48.01 percent of Prairieland Bancorp, Inc., Bushnell, Illinois, and thereby indirectly increase its ownership of Merchants and Farmers State Bank of Bushnell, Bushnell, Illinois.

Board of Governors of the Federal Reserve System, June 22, 2009.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. E9–15005 Filed 6–24–09; 8:45 am]

BILLING CODE 6210–01–S

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.

TRANSACTION GRANTED—EARLY TERMINATION

ET date	TRANS No.	ET req. status	Party name
04–MAY–09	20090369	G	Reyes Holdings, LLC
		G	Crest Beverage, LLC.
		G	Crest Beverage, LLC.
	20090370	G	Steven S. Sourapas.
		G	Crest Beverage, LLC.
		G	Crest Beverage, LLC.
	20090371	G	Michael S. Sourapas.
		G	Crest Beverage, LLC.
		G	Crest Beverage Co.
	20090399	G	Holly Corporation.
		G	Sunoco, Inc.
		G	Sunoco, Inc.
05–MAY–09	20090428	G	The Veritas Capital Fund lll, L.P.
		G	Marsh & McLennan Companies, Inc.
		G	Kroll Government Services, Inc.
06–MAY–09	20090392	G	Cisco Systems, Inc.
		G	Tidal Software, Inc.
		G	Tidal Software, Inc.
08–MAY–09	20090387	G	Beckman Coulter, Inc.
		G	Olympus Corporation.
		G	Olympus Germany Newco (to-be-formed).
		G	Mishima Olympus Co., Ltd.
		G	Olympus Japan Newco (to-be-formed).
		G	Olympus Medical Engineering Co., Ltd.
		G	Olympus France Newco (to-be-formed).
	20090388	G	Olympus Corporation.
		G	Beckman Coulter, Inc.
		G	Beckman Coulter, Inc.
	20090419	G	Joseph V. Topper, Jr.
		G	BP p.l.c.
		G	BP Products North America Inc.
	20090436	G	Foster Farms Delaware, Inc.
		G	Lonnie A. Pilgrim.
		G	Pilgrim's Pride Corp.
	20090437	G	James A. Haslam III.
		G	Rooney Enterprises, Inc.
		G	Rooney Enterprises, Inc.
	20090438	G	CRT Investments, LLC.
		G	Cannella Response Television, Inc.
		G	Cannella Newco LLC.
11–MAY–09	20090389	G	Navistar International Corporation.
		G	Ford Motor Company.
		G	Blue Diamond Parts, LLC.
13–MAY–09	20090439	G	Harris Corporation.
		G	Tyco Electronics Ltd.
		G	Tyco Electronics Ltd.
14–MAY–09	20090451	G	UAW Retiree Medical Benefits Trust.
		G	Chrysler LLC.
		G	Chrysler LLC.
15–MAY–09	20090434	G	William Moms Agency, LLC.
		G	William Morris Endeavor Entertainment, LLC.
		G	William Morris Endeavor Entertainment, LLC.
	20090453	G	Atlas America, Inc.
		G	Atlas Energy Resources, LLC.
		G	Atlas Energy Resources, LLC.
19–MAY–09	20090450	G	Hasbro, Inc.
		G	Discovery Communications, Inc.
		G	DHJV Company LLC.
21–MAY–09	20090443	G	William H. Gates III.
		G	Grupo Televisa S.A.B.
		G	Grupo Televisa S.A.B.
	20090458	G	AT&T Inc.
		G	Sprint Nextel Corporation.
		G	WirelessCo, L.P.
22–MAY–09	20090464	G	Energizer Holdings, Inc.
		G	Appointive Distributing Trust A a/c Samuel C. Johnson 1988.
		G	S.C. Johnson & Son, Inc.
26–MAY–09	20090470	G	Mahindra & Mahindra Limited.
		G	Satyam Computer Services Limited.
		G	Satyam Computer Services Limited.
27–MAY–09	20090471	G	Space Coast Credit Union.

TRANSACTION GRANTED—EARLY TERMINATION—Continued

ET date	TRANS No.	ET req. status	Party name
		G	Eastern Financial Florida Credit Union.
		G	Eastern Financial Florida Credit Union.
29–MAY–09	20090442	G	John C. Malone.
		G	Liberty Global, Inc.
		G	Liberty Global, Inc.
01–JUN–09	20090454	G	GlaxoSmithKline plc.
		G	Stiefel Laboratories, Inc.
		G	Stiefel Laboratories, Inc.
	20090473	G	Mr. James Laurence Balsillie.
		G	Mr. Jerry Moyes.
		G	Coyotes Hockey, LLC.
	20090480	G	Green Plains Renewable Energy, Inc.
		G	RBF Acquisition II, LLC.
		G	RBF Acquisition II, LLC.
	20090482	G	Lime Rock Partners V, LP.
		G	Allis-Chalmers Energy Inc.
		G	Allis-Chalmers Energy Inc.
	20090488	G	Aurora Resurgence Fund (C) L.P.
		G	Norwood Promotional Products Holdings, Inc.
		G	Norwood Promotional Products, Inc.
02–JUN–09	20090465	G	United Technologies Corporation.
		G	Watsco, Inc.
		G	Watsco, Inc.
	20090466	G	Watsco, Inc.
		G	United Technologies Corporation.
		G	Carrier Sales and Distribution, LLC.
05–JUN–09	20090489	G	TC PipeLines, LP.
		G	TransCanada Corporation.
		G	North Baja Pipeline, LLC.
	20090497	G	BioMarin Pharmaceutical Inc.
		G	Medicis Pharmaceutical Corporation.
		G	Medicis Pediatrics, Inc.
	20090500	G	Windstream Corporation.
		G	D&E Communications, Inc.
		G	D&E Communications, 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. E9–14919 Filed 6–24–09; 8:45 am]

BILLING CODE 6750–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Pandemic Influenza Vaccines—Amendment

Authority: 42 U.S.C. 247d–6d.

ACTION: Notice of third amendment to the January 26, 2007 Declaration under the Public Readiness and Emergency Preparedness Act, and Republication of the Declaration, as Amended.

SUMMARY: Amendment to declaration pursuant to section 319F–3 of the Public Health Service Act (42 U.S.C. 247d–6d) to provide targeted liability protections for pandemic countermeasures based on the Acting Secretary's determination, under section 319F–3(b) of the Act, that the risk that the spread of H1N1 swine influenza viruses (now known as 2009 H1N1 Influenza A, or 2009 H1N1 influenza) and resulting disease constitutes a public health emergency; and republication of the declaration to reflect the declaration in its entirety, as amended.

DATES: The third amendment and republication of the declaration are effective as of June 15, 2009.

FOR FURTHER INFORMATION CONTACT: RADM W.C. Vanderwagen, Assistant Secretary for Preparedness and Response, Office of the Secretary, Department of Health and Human Services, 200 Independence Avenue, SW., Washington, DC 20201, Telephone (202) 205–2882 (this is not a toll-free number).

HHS Secretary's Amendment to the Declaration for the Use of the Public Readiness and Emergency Preparedness Act for H5N1, H2, H6, and H9 Vaccines

Whereas, on April 26, 2009, Acting Secretary Charles Johnson determined under section 319 of the Public Health Service Act, (42 U.S.C. 247d) (''the Act''), that a public health emergency exists nationwide involving the Swine influenza A virus that affects or has significant potential to affect the national security (''2009 H1N1 influenza'');

Whereas, the World Health Organization has established a Pandemic alert phase 5 for the 2009 H1N1 influenza virus currently circulating worldwide;

Whereas, vaccination may be effective to protect persons from the threat of 2009 H1N1 influenza;

Whereas, Secretary Michael O. Leavitt issued a Declaration for the Use of the Public Readiness and Emergency Preparedness Act dated January 26, 2007 (''Original Declaration''), as amended on November 30, 2007 and

October 17, 2008 with respect to certain avian influenza viruses; minor modifications are necessary to correct previous, minor, editorial errors; and republication of the Original Declaration, as amended, in its entirety is necessary for clarity;

Whereas, the findings made by the Secretary in the Original Declaration, as amended, continue to apply generally, and apply with equal force as to the 2009 H1N1 influenza;

Whereas, in accordance with section 319F–3(b)(6) of the Act (42 U.S.C. 247d–6d(b), I have considered the desirability of encouraging the design, development, clinical testing or investigation, manufacturing, labeling, distribution, formulation, packaging, marketing, promotion, sale, purchase, donation, dispensing, prescribing, administration, licensing, and use of additional covered countermeasures with respect to the category of disease and population described in sections II and IV of the Original Declaration, as amended, and as hereby further amended, and have found it desirable to encourage such activities for these additional covered countermeasures, and;

Whereas, to encourage the design, development, clinical testing or investigation, manufacturing and product formulation, labeling, distribution, packaging, marketing, promotion, sale, purchase, donation, dispensing, prescribing, administration, licensing, and use of medical countermeasures with respect to the category of disease and population described in sections II and IV of the Original Declaration, as amended, and as hereby further amended, it is advisable, in accordance with section 319F–3(a) and (b) of the Act, to provide immunity from liability for covered persons, as that term is defined at section 319F–3(i)(2) of the Act, and to include as such covered persons other qualified persons as I have identified in section VI of the Original Declaration, as amended;

Therefore, pursuant to section 319F–3(b) of the Act, I have determined that 2009 H1N1 influenza and resulting disease constitutes a public health emergency. In order to extend the Original Declaration, as amended, to apply to the 2009 H1N1 influenza and to correct previous, minor, editorial errors, the Original Declaration, as amended, is hereby further amended and republished as follows:

In the title, strike ''and H9'' and insert ''H9, and 2009 H1N1''.

In the first ''whereas'' clause, first sentence, strike ''(H5N1). H7 and H9 vaccines'' and insert ''H5N1, H7, and H9''.

After the fourth ''whereas'' clause, insert a new recital as follows:

Whereas, on April 26, 2009, Acting Secretary Charles E. Johnson determined under section 319 of the Public Health Service Act, (42 U.S.C. 247d), that a public emergency exists nationwide involving the 2009 H1N1 influenza virus that affects or has significant potential to affect the national security (now called ''2009 H1N1 influenza'');

In the ninth ''whereas'' clause, insert '','' after ''IV''; strike ''of the Original Declaration, as amended,''; insert '';'' after ''VI''; and strike ''of the Original Declaration;''.

In the ''therefore'' clause concluding the recitals, strike the period and insert '', and that the 2009 H1N1 influenza constitutes a public health emergency.''.

In section I, second paragraph, first sentence, strike all after ''influenza A'' and insert ''H5N1, H2, H6, H7, H9, and 2009 H1N1 vaccines and any associated adjuvants.''.

In section I, second paragraph, second sentence, strike all after ''influenza A'' and insert ''H5N1, H2, H6, H7, H9, and 2009 H1N1 vaccines used and administered in accordance with this declaration.''.

Strike the current section II, ''Category of Disease,'' in its entirety and replace as follows:

II. Category of Disease (as Required by Section 319F–3(b)(2)(A) of the Act)

The category of disease for which I am recommending the administration or use of the Covered Countermeasures is the threat of or actual human influenza that results from the infection of humans following exposure to the virus with (1) highly pathogenic avian influenza A (H5N1, H2, H6, H7, or H9) virus; or (2) 2009 H1N1 influenza.

In section III, strike the period and insert ''; except that with respect to 2009 H1N1 influenza vaccine, the effective period commences on June 15, 2009 and extends through March 31, 2013.''

In Section VIII, strike the section in its entirety and replace it with the following:

The Declaration for the Use of the Public Readiness and Emergency Preparedness Act for H5N1 vaccines was published on January 26, 2007 and amended on November 30, 2007 to add H7 and H9 vaccines and on October 17, 2008 to add H2 and H6 vaccines. This Declaration incorporates all amendments prior to the date of its publication in the **Federal Register**. Any future amendment to this Declaration will be published in the **Federal Register**, pursuant to section 319F–2(b)(4) of the Act.

All other provisions of the Original Declaration, as amended, remain in full force.

Republication of HHS Secretary's Original Declaration, as Amended, for the Use of the Public Readiness and Emergency Preparedness Act for H5N1, H2, H6, H9, and 2009 H1N1 Vaccines

To the extent any term of the original January 27, 2007 Declaration or any amendment thereto is inconsistent with any provision of this republished Declaration, the terms of this republished Declaration are controlling.

HHS Secretary's Declaration for the Use of the Public Readiness and Emergency Preparedness Act for H5N1, H2, H6, H9, and 2009 H1N1 Vaccines

Whereas highly pathogenic avian influenza A H5N1, H7, and H9 have spread by infected migratory birds and exports of live poultry from Asia through Europe and Africa since 2004, and could spread into North America in 2006 or later, and have caused disease in humans with an associated high case fatality upon infection with this virus;

Whereas, the H2 class of influenza viruses, which caused the human influenza pandemic of 1957 and reappeared recently in U.S. animals including swine, is viewed as a likely candidate to re-evolve into an influenza strain capable of causing a pandemic of human influenza;

Whereas, the H6 class of influenza viruses, which appeared recently in animals including domestic fowl, is viewed as a likely candidate to evolve into an influenza strain capable of causing a pandemic of human influenza;

Whereas, an H5N1, H2, H6, H7 or H9 avian influenza virus may evolve into strain capable of causing a pandemic of human influenza;

Whereas, on April 26, 2009, Acting Secretary Charles E. Johnson determined under section 319 of the Public Health Service Act, (42 U.S.C. 247d), that a public health emergency exists nationwide involving the Swine Influenza A virus that affects or has significant potential to affect the national security (now called ''2009 H1N1 influenza'');

Whereas, the possibility of governmental program planners obtaining stockpiles from private sector entities except through voluntary means such as commercial sale, donation, or deployment would undermine national preparedness efforts and should be discouraged as provided for in section 319F–3(b)(2)(E) of the Public Health Service Act (42 U.S.C. 247d–6d(b)) (''the Act'');

Whereas, immunity under section 319F–3(a) of the Act should be available to governmental program planners for distributions of Covered Countermeasures obtained voluntarily, such as by (1) donation; (2) commercial sale; (3) deployment of Covered Countermeasures from Federal stockpiles; or (4) deployment of donated, purchased, or otherwise voluntarily obtained Covered Countermeasures from State, local, or private stockpiles;

Whereas, the extent of immunity under section 319F–3(a) of the Act afforded to a governmental program planner that obtains Covered Countermeasures except through voluntary means is not intended to affect the extent of immunity afforded other covered persons with respect to such covered countermeasures;

Whereas, to encourage the design, development, clinical testing or investigation, manufacturing and product formulation, labeling, distribution, packaging, marketing, promotion, sale, purchase, donation, dispensing, prescribing, administration, licensing, and use of medical countermeasures with respect to the category of disease and population described in section II and IV it is advisable, in accordance with section 319F–3(a) and (b) of the Act, to provide immunity from liability for covered persons, as that term is defined at section 319F–3(i)(2) of the Act, and to include as such covered persons such other qualified persons as I have identified in section VI;

Whereas, in accordance with section 319F–3(b)(6) of the Public Health Service Act (42 U.S.C. 247d–6d(b)) (''the Act''), I have considered the desirability of encouraging the design, development, clinical testing or investigation, manufacturing and product formulation, labeling, distribution, packaging, marketing, promotion, sale, purchase, donation, dispensing, prescribing, administration, licensing, and use of medical countermeasures with respect to the category of disease and population described in sections II and IV below, and have found it desirable to encourage such activities for the Covered Countermeasures;

Therefore, pursuant to section 319F–3(b) of the Act, I have determined there is a credible risk that the spread of avian influenza viruses and resulting disease could in the future constitute a public health emergency, and that 2009 H1N1 influenza constitutes a public health emergency.

I. Covered Countermeasures (as Required by Section 319F–3(b)(1) of the Act)

Covered Countermeasures are defined at section 319F–3(i) of the Act.

At this time, and in accordance with the provisions contained herein, I am recommending the manufacture, testing, development, distribution, dispensing; and, with respect to the category of disease and population described in sections II and IV, below, the administration and usage of the pandemic countermeasure influenza A H5N1, H2, H6, H7, H9, and 2009 H1N1 Vaccines and any associated adjuvants. The immunity specified in section 319F–3(a) of the Act shall only be in effect with respect to: Present or future Federal contracts, cooperative agreements, grants, interagency agreements, or memoranda of understanding for pandemic countermeasure influenza A H5N1, H2, H6, H7, H9, and 2009 H1N1 vaccines used and administered in accordance with this declaration. In accordance with section 319F–3(b)(2)(E) of the Act, for governmental program planners, the immunity specified in section 319F–3(a) of the Act shall be in effect to the extent they obtain Covered Countermeasures through voluntary means of distribution, such as (1) donation; (2) commercial sale; (3) deployment of Covered Countermeasures from Federal stockpiles; or (4) deployment of donated, purchased, or otherwise voluntarily obtained Covered Countermeasures from State, local, or private stockpiles. For all other covered persons, including other program planners, the immunity specified in section 319F–3(a) of the Act shall, in accordance with section 319F–3(b)(2)(E) of the Act, be in effect pursuant to any means of distribution.

This declaration shall subsequently refer to the countermeasures identified above as Covered Countermeasures.

This declaration shall apply to all Covered Countermeasures administered or used during the effective time period of the declaration.

II. Category of Disease (as Required by Section 319F–3(b)(2)(A) of the Act)

The category of disease for which I am recommending the administration or use of the Covered Countermeasures is the threat of or actual human influenza that results from the infection of humans following exposure to the virus with (1) highly pathogenic avian influenza A (H5N1, H2, H6, H7, or H9) virus; or (2) 2009 H1N1 influenza.

III. Effective Time Period (as Required by Section 319F–3(b)(2)(B) of the Act)

The effective period of time of this Declaration commences on December 1, 2006 and extends through February 28, 2010; except that with respect to 2009 H1N1 influenza vaccine, the effective period commences on June 15, 2009 and extends through March 31, 2013.

IV. Population (as Required by Section 319F–3(b)(2)(C) of the Act)

Section 319F–3(a)(4)(A) confers immunity to manufacturers and distributors of the Covered Countermeasure, regardless of the defined population.

Section 319F–3(a)(3)(C)(i) confers immunity to covered persons who could be program planners or qualified persons with respect to the Covered Countermeasure only if a member of the population specified in the declaration administers or uses the Covered Countermeasure and is in or connected to the geographic location specified in this declaration, or the program planner or qualified person reasonably could have believed that these conditions were met.

The populations specified in this Declaration are the following: (1) All persons who use a Covered Countermeasure or to whom such a Covered Countermeasure is administered as an Investigational New Drug in a human clinical trial conducted directly by the Federal Government, or pursuant to a contract, grant or cooperative agreement with the Federal Government; (2) all persons who use a Covered Countermeasure or to whom such a Countermeasure is administered in a pre-pandemic phase, as defined below; and/or (3) all persons who use a Covered Countermeasure, or to whom such a Covered Countermeasure is administered in a pandemic phase, as defined below.

V. Geographic Area (as Required by Section 319F–3(b)(2)(D) of the Act)

Section 319F–3(a) applies to the administration and use of a Covered Countermeasure without geographic limitation.

VI. Other Qualified Persons (as Required by Section 319F–3(i)(8)(B) of the Act)

With regard to the administration or use of a Covered Countermeasure, Section 319F–3(i)(8)(A) of the Act defines the term ''qualified person'' as a licensed individual who is authorized to prescribe, administer, or dispense the countermeasure under the law of the State in which such Covered Countermeasure was prescribed,

administered or dispensed. Additional persons who are qualified persons pursuant to section 319F–3(i)(8)(B) are the following: None.

VII. Additional Time Periods of Coverage After Expiration of Declaration (as Required by Section 319F–3(b)(3)(B) of the Act)

A. I have determined that, upon expiration of the applicable time period specified in Section III above, an additional twelve (12) months is a reasonable period to allow for the manufacturer to arrange for disposition of the Covered Countermeasure, including the return of such product to the manufacturer, and for covered persons to take such other actions as are appropriate to limit the administration or use of the Covered Countermeasure, and the liability protection of section 319F–3(a) of the Act shall extend for that period.

B. The Federal Government shall purchase the entire production of Covered Countermeasures under the contracts specifically listed by contract number in section I for the stockpile under section 319F–2 of the Act, and shall be subject to the time-period extension of section 319F–3(b)(3)(C). Production under future contracts for the same vaccine will also be subject to the time-period extension of section 319F–3(b)(3)(C).

VIII. Amendments

The Declaration for the Use of the Public Readiness and Emergency Preparedness Act for H5N1 vaccines was published on January 26, 2007 and amended on November 30, 2007 to add H7 and H9 vaccines and on October 17, 2008 to add H2 and H6 vaccines. This Declaration incorporates all amendments prior to the date of its publication in the **Federal Register**. Any future amendment to this Declaration will be published in the **Federal Register**, pursuant to section 319F–2(b)(4) of the Act.

IX. Definitions

For the purposes of this declaration, ''pre-pandemic phase'' means the following stages, as defined in the National Strategy for Pandemic Influenza: Implementation Plan (Homeland Security Council, May 2006): (0) New Domestic Animal Outbreak in At-Risk Country; (1) Suspected Human Outbreak Overseas; (2) Confirmed Human Outbreak Overseas; and (3) Widespread Human Outbreaks in Multiple Locations Overseas. For the purposes of this declaration, ''pandemic phase'' means the following stages, as defined in the National Strategy for Pandemic Influenza: Implementation Plan (Homeland Security Council, May 2006): (4) First Human Case in North America; and (5) Spread Throughout United States.

Dated: June 15, 2009.

Kathleen Sebelius,

Secretary.

Appendix

I. List of U.S. Government Contracts—Covered H5N1 Vaccine Contracts [January 26, 2007]

1. HHSN266200400031C
2. HHSN266200400032C
3. HHSN266200300039C
4. HHSN266200400045C
5. HHSN266200205459C
6. HHSN266200205460C
7. HHSN266200205461C
8. HHSN266200205462C
9. HHSN266200205463C
10. HHSN266200205464C
11. HHSN266200205465C
12. HHSN266199905357C
13. HHSN266200300068C
14. HHSN266200005413C
15. HHSO100200600021C (formerly 200200409981)
16. HHSO100200500004C
17. HHSO100200500005I
18. HHSO100200700026I
19. HHSO100200700027I
20. HHSO100200700028I
21. HHSO100200600010C
22. HHSO100200600011C
23. HHSO100200600012C
24. HHSO100200600013C
25. HHSO100200600014C
26. HHSO100200600022C (formerly 200200511758)
27. HHSO100200600023C (formerly 200200410431)
28. CRADA No. AI–0155 NIAID/MedImmune
29. HHSO100200700029C
30. HHSO100200700030C
31. HHSO100200700031C

[FR Doc. E9–14948 Filed 6–24–09; 8:45 am]

BILLING CODE 4150–37–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60 Day–09–09BX]

Proposed Data Collections Submitted for Public Comment and Recommendations

In compliance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the Centers for Disease Control and Prevention (CDC) will publish periodic summaries of proposed projects. Alternatively, to obtain a copy of the data collection plans and instrument, call 404–639–5960 and send comments to Maryam I. Daneshvar, CDC Reports Clearance Officer, 1600 Clifton Road, NE., MS–D74, Atlanta, Georgia 30333; comments may also be sent by e-mail to *omb@cdc.gov*.

Comments are invited on (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have a 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 clarify 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 information technology. Written comments should be received within 60 days of this notice.

Proposed Project

Clostridium difficile Infection (CDI) Surveillance—New—National Center for Preparedness, Detection, and Control of Infectious Diseases (NCPDCID), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

Steady *increases in the rate and severity of Clostridium difficile* infection (CDI) indicate a clear need to conduct longitudinal assessments of the impact of CDI in the United States. *C. difficile* is an anaerobic, spore-forming, gram positive bacillus that produces two pathogenic toxins: A and B. CDI ranges in severity from mild diarrhea to fulminant colitis and death. Transmission of *C. difficile* occurs primarily in healthcare facilities, where environmental contamination by *C. difficile* spores and exposure to antimicrobial drugs are common. No longer limited to healthcare environments, community-associated CDI is the focus of increasing attention. Recently, several cases of serious CDI have been reported in what have been considered low-risk populations, including healthy persons living in the community and peri-partum women.

For this proposed data collection, the surveillance population will consist of persons residing in the catchment area of the participating Emerging Infections Program (EIP) sites. This surveillance poses no more than minimal risk to the study participants as there will be no interventions or modifications to the care study participants receive. EIP surveillance personnel will perform active case finding from laboratory reports of stool specimens testing

positive for *C. difficile* toxin and abstract data on cases using a standardized case report form. For a subset of cases (*e.g.,* community-associated *C. difficile* cases) sites will administer a health interview. Remnant stool specimens from cases testing positive for *C. difficile* toxin will be submitted to reference laboratories for culturing, and isolates will be sent to CDC for confirmation and molecular typing. Outcomes of this surveillance project will include the population-based incidence of community- and healthcare-associated CDI among participating EIP sites, characterization of *C. difficile* strains that are responsible for CDI in the population under surveillance with a focus on strains from community-associated cases, a description of the epidemiology of community- and healthcare-associated CDI, and hypothesis-generation for future activities using EIP CDI surveillance infrastructure.

The proposed surveillance for CDI through the Emerging Infections Program will expand CDC capacity to monitor incidence of *C. difficile* in community and healthcare settings as well as to monitor and detect antimicrobial resistance. This activity supports the HHS Action Plan for elimination of healthcare-associated infections.

CDC estimates that a total of 7,650 CDI Surveillance Case Report Forms (CRFs) will be completed during a one-year study period on incident CDI cases within the EIP catchment area. Approximately 3,825 cases will require a completed CRF; the remaining 3,825 cases will only require a partially completed CRF. CDC estimates that 1,700 CDI Surveillance Health Interviews (HI) will be completed during a one-year study period. Surveillance Officers at the EIP sites will complete and submit the case report forms and health interviews. There are no costs to respondents.

ESTIMATES OF ANNUALIZED BURDEN

Form name	Respondents	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden (in hours)
CDI Surveillance Case Report Form—Complete.	EIP Surveillance Officer	10	383	1	3,830
CDI Surveillance Case Report Form—Partial.	EIP Surveillance Officer	10	382	15/60	955
CDI Surveillance Health Interview	EIP Surveillance Officer	10	170	45/60	1,275
Total					6,060

Dated: June 17, 2009.

Maryam I. Daneshvar,

Acting Reports Clearance Officer, Centers for Disease Control and Prevention.

[FR Doc. E9–14989 Filed 6–24–09; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Agency Information Collection Activities: Proposed Collection: Comment Request

In compliance with the requirement for opportunity for public comment on proposed data collection projects (section 3506(c)(2)(A) of Title 44, United States Code, as amended by the Paperwork Reduction Act of 1995, Pub. L. 104–13), the Health Resources and Services Administration (HRSA) publishes periodic summaries of proposed projects being developed for submission to the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995. To request more information on the proposed project or to obtain a copy of the data collection plans and draft instruments, e-mail *paperwork@hrsa.gov* or call the HRSA Reports Clearance Officer on (301) 443–1129.

Comments are invited on: (a) The proposed collection of information for the proper performance of the functions of the agency; (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: HRSA/Bureau of Primary Health Care Capital Improvement Program Application Electronic Health Records (EHR) Readiness Checklist (OMB No. 0915–0325)—Extension

The American Recovery and Reinvestment Act (ARRA) provides $1.5 billion in grants to support ''construction, renovation and equipment'', and ''the acquisition of health information technology systems, for health centers including health center controlled networks receiving operating grants under section 330'' of the Public Health Service (PHS) Act, as amended (42 U.S.C. 254b). HRSA is requesting extension of the approval of the Electronic Health Records (EHR) Readiness Checklist portion of the application where applicants must provide information to demonstrate readiness for electronic health records if they propose to use funds for electronic health record (EHR) related purchases. Of the $1.5 billion, HRSA will award approximately $850 million, through limited competition grants, for one-time Capital Improvement Program (CIP) grant funding in fiscal year (FY) 2009 to support existing section 330 funded health centers. Funding under this opportunity will address pressing capital improvement needs in health centers, such as construction, repair, renovation, and equipment purchases, including health information technology systems. Applicants must provide information using the EHR Readiness Checklist that demonstrates comprehensive planning and readiness for implementing EHRs.

The estimated annual burden is as follows:

Form	Number of respondents	Responses per respondent	Total responses	Hours per response	Total burden hours
EHR Readiness Checklist	568	1	568	.25	142
Total	568		568		142

E-mail comments to *paperwork@hrsa.gov* or mail the HRSA Reports Clearance Officer, Room 10–33, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857. Written comments should be received within 60 days of this notice.

Dated: June 19, 2009.

Alexandra Huttinger,

Director, Division of Policy Review and Coordination.

[FR Doc. E9–14978 Filed 6–24–09; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Health Center Program

AGENCY: Health Resources and Services Administration, HHS.

ACTION: Notice of Noncompetitive Replacement Award to Community Health Center of Richmond.

SUMMARY: The Health Resources and Services Administration (HRSA) will be transferring Health Center Program (section 330 of the Public Health Service Act) New Access Point funds originally awarded to William F. Ryan Community Health Center, Inc., to the Community Health Center of Richmond to ensure the provision of critical primary health care services to underserved populations in Staten Island, Richmond County, New York.

SUPPLEMENTARY INFORMATION:

Former Grantee of Record: William F. Ryan Community Health Center, Inc.

Original Period of Grant Support: March 1, 2009, to February 28, 2011.

Replacement Awardee: Community Health Center of Richmond.

Amount of Replacement Award: $1,300,000.

Period of Replacement Award: The period of support for the replacement award is March 1, 2009 to February 28, 2011.

Authority: Section 330 of the Public Health Service Act, 42 U.S.C. 245b.

CFDA Number: 93.703.

Justification for the Exception to Competition: The former grantee, William F. Ryan Community Health Center, Inc., notified HRSA that its original subrecipient, Community Health Center of Richmond, will directly initiate primary health care services in Staten Island to the more than 5,250 low income, underserved and uninsured individuals in the original service area, Staten Island, Richmond County, New York, as had been proposed in a funded New Access Point grant application.

Community Health Center of Richmond was identified as the provider of services on behalf of the William F. Ryan Community Health Center under the original application.

Community Health Center of Richmond is an experienced provider of care to the original target population, has a demonstrated record of compliance with the Health Center Program statutory and regulatory requirements, can provide primary health care services immediately, and is located in the same geographical area where the William F. Ryan Community Health Center, Inc.'s services were to have been provided.

Community Health Center of Richmond is a subrecipient of the former grantee and will be able to provide continuity of care to patients of the former grantee. This underserved target population has an immediate need for vital primary health care services and would be negatively impacted by any delay caused by a competition. As a result, in order to ensure that critical primary health care services are available to the original target population in a timely manner, this replacement award will not be competed.

FOR FURTHER INFORMATION CONTACT: Marquita Cullom-Stott via e-mail at *MCullom-Stott@hrsa.gov* or 301–594–4300.

Dated: June 18, 2009.

Mary K. Wakefield,

Administrator.

[FR Doc. E9–14980 Filed 6–24–09; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Healthcare Research and Quality

Request for Tools and Methods Used by Small- and Medium-Sized Practices for Analyzing and Redesigning Workflows Either Before or After Health Information Technology Implementation

AGENCY: Agency for Healthcare Research and Quality (AHRQ), HHS.

ACTION: Notice of request for information.

SUMMARY: This notice announces the intention of the Agency for Healthcare Research and Quality (AHRQ) to request information from (1) small- and medium-sized practices about how they study or redesign their workflow, including information on the use of tools and methods for studying workflow, and (2) others (*e.g.,* experts, vendors, professional associations) that have developed, implemented and used tools and methods for studying workflow in the context of health IT implementation and use. Workflow is defined as the way work is performed and patient-related information is communicated within small- and medium-sized practices and between those practices and external organizations such as community pharmacies and local hospitals. It is our understanding that there is currently no standard description of workflows for care processes that can be used to guide decisions of where and how to incorporate health information technology. This Request for Information is part of a three-pronged effort to scan the environment, the literature and knowledgeable and interested parties to produce a useful list of resources that may assist small- and medium-sized medical practices and clinics to consider the utility and potential effectiveness of incorporating health IT into the way they practice and communicate patient information. The responses to this request for information will be considered for reference and possible incorporation into an electronic toolkit to be made available on the Internet to assist small- and medium-sized practices in analyzing or

redesigning workflow either before or after implementation of one or more health IT applications. All responses to this request for information are voluntary.

DATES: Submit comments on or before August 24, 2009.

ADDRESSES: Electronic responses are preferred and should be addressed to: *WorkflowRFI@ahrq.hhs.gov.* Non-electronic responses will also be accepted. Please send to: Teresa Zayas-Cabán, Senior Manager, Health IT, Agency for Healthcare Research and Quality, Attention: Workflow RFI Responses, 540 Gaither Road, Room 6115, Rockville, MD 20850, Phone: 301–427–1586.

FOR FURTHER INFORMATION CONTACT: Teresa Zayas-Cabán, e-mail: *Teresa.ZayasCaban@AHRQ.hhs.gov,* Web site of the project on ''Incorporating Health Information Technology Into Workflow Redesign'': *http://cqpi.engr.wisc.edu/withit_home.*

SUPPLEMENTARY INFORMATION:

Submission Criteria

To assist small- and medium-sized medical practices or clinics considering implementation of any health IT, AHRQ is requesting information about tools, methods, technologies, and data reporting procedures that may be used to analyze and possibly improve the delivery of health care in such settings. From our perspective, these settings would include practices for which investment in health IT is financially burdensome and therefore regarded as high risk. While AHRQ welcomes all comments on the above described subject, the agency is particularly interested in obtaining information and opinions from small- and medium-sized healthcare practices that have implemented or are considering implementing health information technology as well as information and opinions from workflow or health IT experts, vendors, professional associations, and others that have developed and/or used workflow analysis or redesign tools. In descriptions of workflow analytic tools or approaches and health IT that have been deployed successfully or unsuccessfully, it would be helpful to receive basic information about the characteristics of the practice(s) or clinic(s) where particular tools, approaches, or health IT have been used including:

- The number of physicians and providers (physician assistants or nurse practitioners) in the practice or clinic.
- The total number of staff (*e.g.,* nurses, medical assistants, receptionists, educators) in the practice or clinic.
- The number of patient visits the practice or clinic had in 2008.
- The medical or surgical specialties within the practice or clinic. Specialties can include: family medicine, internal medicine, pediatrics, geriatrics, hematolology, oncology, cardiology, pulmonology, endocrinology, gastroenterology, rheumatology, ophthalmology, obstetrics and gynecology, nephrology, infectious diseases, physical medicine and rehabilitation, dermatology, neurosurgery, general surgery, pediatric surgery, cardiovascular surgery, thoracic surgery, vascular surgery, transplant surgery, urology, plastic surgery, orthopedic surgery, otolaryngology, and anesthesiology.
- Any ancillary services located on-site at the practice or clinic. Examples include: laboratory, radiology, physical therapy, occupational therapy, speech therapy, pharmacy.

With regard to health IT, please indicate what specific health IT applications and software have been used in particular settings; *e.g.:* electronic medical records (EMRs) (*i.e.,* electronic records of health-related information on individual patients that may be created, gathered, managed, and consulted by authorized clinicians and staff within a single health care organization), electronic health records (EHRs) (*i.e.,* electronic records of health-related information on individual patients that conform to nationally recognized interoperability standards and that may be created, managed, and consulted by authorized clinicians and staff across more than one health care organization), computerized provider order entry (or CPOE), e-prescribing, digital imaging, telemedicine, and others. Please include information regarding:

- Functionality of each health IT application (*i.e.,* what you use them for).
- How long each health IT application has been in use.

With regard to workflow analysis and redesign tools, please tell us about any tools, methods, technologies, or data reports to analyze or redesign the way work is done and information flows in your practice or clinic before or after health IT implementation. Examples of tools include process analysis, flowcharting, task analysis and lean management. Other examples include using data reports from a health IT application to analyze or understand processes and workflow.

For each tool, method, technology or data report we would appreciate the following information:

- Name and acronym of the tool, method, technology, or data report.
- Authors, sources and/or references.
- Background about the tool, method, technology, or data report; *i.e.,* how did you learn about it.
- Intended purpose; *i.e.,* what it was used for and at what point it was used during the redesign and/or implementation process.
- How the tool, method, technology, or data report was used. Please describe the procedure or steps for using it as well as who participated in its use.
- Resources needed to use the tool, method, technology, or data report (*e.g.,* expertise, time, software).
- Information about reliability and validity of the tool, method, technology, or data report, if applicable.
- Advantages and disadvantages of the tool, method, technology, or data report.
- How useful, overall, the tool, method, technology, or data report is.
- How easy or difficult is it to use the tool, method, technology, or data report.

Additionally, please provide information that you think will assist our target audience to avoid pitfalls of complicated or inappropriate tools and software. If you are willing and authorized to share any referenced tools, please submit them with your response along with instructional documents related to the tool and its use, including any restrictions or prerequisite permissions necessary for use by others.

In describing the impact of health IT on organization of work and workflow, a discussion of the following topics would provide valuable information for small- and medium-sized practices or clinics:

- Support that was available during the health IT implementation (*e.g.,* additional staff, overtime, additional time to complete tasks, technical support, internal versus external support).
- Training provided to the users including the duration of the training (*e.g.,* number of days of training per end user), and the methods used to train users (*e.g.,* 'train-the-trainer,' super users, lecture, hands-on training).
- Discussion of successful or unsuccessful interfacing of the health IT application(s) is/are interfaced with each other and/or other IT, such as IT applications of ancillary services (*e.g.,* lab system).
- Discussion of any formal evaluation of the health IT implementation was conducted and any measures used for the evaluation (*e.g.,* impact on job satisfaction, efficiency, workload, decisionmaking accuracy, quality of care, cost).

In assessing the implementation of health IT, comments about the impact of particular health IT applications on different domains of a practice or clinic are requested. Thus, we would appreciate comments on how health IT has impacted or supports:

- Communication among practice or clinic staff (*e.g.,* physician, nurse, medical assistant, physician assistant, receptionist, technician).
- Coordination of care among practice or clinic staff (*e.g.,* physician, nurse, medical assistant, physician assistant, receptionist, technician).
- Information flow between the practice or clinic and external healthcare organizations (*e.g.,* community pharmacies, imaging centers, local hospitals).
- Clinicians' work during patient visit.
- Clinicians' thought processes as they care for patients.
- Access to patient-related information.

Additional Submission Instructions

Responders should identify any information that they believe is confidential commercial information. Information reasonably so labeled will be protected in accordance with the FOIA, 5 U.S.C. 552(b)(4), and will not be released by the agency in response to any FOI requests. It will not be incorporated directly into any requirements or standards that the agency may develop as a result of this inquiry regarding useful tools or information for small- and medium-sized medical practices regarding implementation of health information technology in such practices.

Dated: June 17, 2009.

Carolyn M. Clancy,

AHRQ, Director.

[FR Doc. E9–14947 Filed 6–24–09; 8:45 am]

BILLING CODE 4160–90–P

DEPARTMENT OF HOMELAND SECURITY

[Docket No. DHS–2009–0082]

Homeland Security Science and Technology Advisory Committee

AGENCY: Science and Technology Directorate, DHS.

ACTION: Committee Management; Notice of Closed Federal Advisory Committee Meeting.

SUMMARY: The Homeland Security Science and Technology Advisory Committee will meet July 21–23, 2009, at Strategic Analysis, Inc. Executive Conference Center, 3601 Wilson Blvd., Suite 600, Arlington, Virginia. This meeting will be closed to the public.

DATES: The Homeland Security Science and Technology Advisory Committee will meet July 21, 2009, from 9 a.m. to 5 p.m., July 22, 2009, from 9 a.m. to 5 p.m. and on July 23, 2009, from 9 a.m. to 3 p.m.

ADDRESSES: The meeting will be held at Strategic Analysis, Inc. Executive Conference Center, 3601 Wilson Blvd., Suite 600, Arlington, Virginia. Requests to have written material distributed to each member of the committee prior to the meeting should reach the contact person at the address below by Friday, July 10, 2009. Send written material to Ms. Deborah Russell, Science and Technology Directorate, Department of Homeland Security, 245 Murray Lane, Bldg. 410, Washington, DC 20528. Comments must be identified by DHS–2009–0082 and may be submitted by *one* of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov*. Follow the instructions for submitting comments.
- *E-mail: HSSTAC@dhs.gov*. Include the docket number in the subject line of the message.
- *Fax:* 202–254–6173.
- *Mail:* Ms. Deborah Russell, Science and Technology Directorate, Department of Homeland Security, 245 Murray Lane, Bldg. 410, Washington, DC 20528.

Instructions: All submissions received must include the words ''Department of Homeland Security'' and the docket number for this action. Comments received will be posted without alteration at *http://www.regulations.gov*, including any personal information provided.

Docket: For access to the docket to read background documents or comments received by the HSSTAC, go to *http://www.regulations.gov*.

FOR FURTHER INFORMATION CONTACT: Ms. Deborah Russell, Science and Technology Directorate, Department of Homeland Security, 245 Murray Lane, Bldg. 410, Washington, DC 20528 202–254–5739.

SUPPLEMENTARY INFORMATION: Notice of this meeting is given under the Federal Advisory Committee Act, 5 U.S.C. Annotated, Appendix 2 (Pub. L. 92–463).

At this meeting, the Committee will receive classified, SECRET-level updated threat briefings; conduct classified reviews of sensor technologies in science and technology; and receive classified reports from the Committee panels. In addition, intelligence agencies, Department of Defense and Homeland Security experts will present SECRET-level briefings concerning these matters sensitive to homeland security.

Basis for Closure: In accordance with section 10(d) of the Federal Advisory Committee Act, it has been determined that the Homeland Security Science and Technology Advisory Committee meeting concerns sensitive Homeland Security information and classified matters within the meaning of 5 U.S.C. 552b(c)(1) and (c)(9)(B) which, if prematurely disclosed, would significantly jeopardize national security and frustrate implementation of proposed agency actions and that, accordingly, the portion of the meeting that concerns these issues will be closed to the public.

Dated: June 17, 2009.

Bradley I. Buswell,

Under Secretary for Science and Technology (Acting).

[FR Doc. E9–14903 Filed 6–24–09; 8:45 am]

BILLING CODE 9110–9F–P

DEPARTMENT OF HOMELAND SECURITY

Office of the Secretary

[Docket No. DHS–2008–0167]

Privacy Act of 1974; DHS/All—026 Personal Identity Verification Management System Systems of Records

AGENCY: Privacy Office; DHS.

ACTION: Notice of Privacy Act system of records.

SUMMARY: The Department of Homeland Security (DHS) is giving notice that it proposes to update, rename, and reissue the record system DHS/OS–2 Personal Identity Verification Management System (9/12/2006) to the DHS/All—026 Personal Identity Verification Management Record System. DHS is publishing this updated notice because the categories of individuals and categories of records have been updated, and the routine uses of this system of records notice have been updated to coincide with updates to DHS's Personal Identity Verification Management Record System. The system will support the administration of the Homeland Security Presidential Directive 12 (HSPD–12) program that directs the use of a common identification credential for both logical and physical access to Federally controlled facilities and information systems.

DATES: Written comments must be submitted on or before July 27, 2009.

ADDRESSES: You may submit comments, identified by docket number DHS–2008–0167 by one of the following methods:

- *Federal e-Rulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* 703–483–2999.
- *Mail:* Mary Ellen Callahan, Chief Privacy Officer, Privacy Office, Department of Homeland Security, Washington, DC 20528.
- *Instructions:* All submissions received must include the agency name and docket number for this rulemaking. All comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided.

Docket: For access to the docket to read background documents or comments received go to *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: For general questions please contact: Cynthia Sjoberg, DHS HSPD–12 Program Director, Office of Security, 245 Murray Lane, SW., Building 410, Washington, DC 20528 by telephone (202) 447–3202 or facsimile (202) 447–0119. For privacy issues please contact: Mary Ellen Callahan (703–235–0780), Chief Privacy Officer, Privacy Office, U.S. Department of Homeland Security, Washington, DC 20528.

SUPPLEMENTARY INFORMATION:

I. Background

The Department of Homeland Security (DHS), Office of Security is publishing an updated Privacy Act system of records notice to cover its collection, use and maintenance of records relating to its role in the collection and management of personally identifiable information for the purpose of issuing credentials (identification badges) to meet the requirements of the Homeland Security Presidential Directive–12 (HSPD–12) and in furtherance of the Office of Security's mission for the Department.

The Personal Identity Verification Management System (PIVMS) records will cover all DHS employees, contractors and their employees, consultants, and volunteers supporting DHS who require long-term access to Federal facilities and information systems, as well as Federal emergency response officials, foreign nationals on assignment, and other Federal employees detailed or temporarily assigned to DHS who work in Federally controlled facilities. The personally identifiable information to be collected will consist of data elements necessary to identify the individual and to perform background or other investigations concerning the individual in order to determine their suitability for access to Federal facilities. The PIVMS will collect several data elements from the personal identity verification (PIV) card applicant, including: Date of birth, Social Security Number, organizational and employee affiliations, fingerprints, digital color photograph, digital signature and phone number(s), as well as additional verification information as determined necessary. The Office of Security designed this system to align closely with its current business practices and uses set forth in this system of records notice.

DHS is publishing this updated notice to include additions to the categories of records and categories of individuals, as well as to include an additional routine use. The categories of records have been updated to include maiden name, mother's maiden name, date of birth, clearance level, identifying physical information, financial history, entry on duty date, weapons bearer designation, and an expansion on what is included in an SF–85 or equivalent form. These records are either new records in the PIV system or were erroneously excluded from the previous SORN.

The categories of individuals have expanded to include Federal emergency response officials; foreign nationals on assignment; and other Federal employees detailed or temporarily assigned to DHS, all of whom are in direct support of the DHS mission and who work in Federally controlled facilities or require access to Federal information technology systems. Lastly, DHS has added a routine use for responding to or investigating a data breach.

Consistent with DHS's information sharing mission, information stored in the PIVMS may be shared with other DHS components, as well as appropriate Federal, state, local, tribal, foreign or international government agencies. This sharing will only take place after DHS determines that the receiving component or agency has a need to know the information to carry out national security, law enforcement, immigration, intelligence, or other functions consistent with the routine uses set forth in this system of records notice.

II. Privacy Act

The Privacy Act embodies fair information principles in a statutory framework governing the means by which the United States Government collects, maintains, uses and disseminates personally identifiable information. The Privacy Act applies to information that is maintained in a ''system of records.'' A ''system of records'' is a group of any records under the control of an agency from which information is stored and retrieved by the name of the individual or by some identifying number such as property address, mailing address, or symbol, assigned to the individual. In the Privacy Act, an individual is defined to encompass United States citizens and lawful permanent residents. DHS extends administrative Privacy Act protections to all individuals where information is maintained on U.S. citizens, lawful permanent residents, and visitors. Individuals may request their own records that are maintained in a system of records in the possession or under the control of DHS by complying with DHS Privacy Act regulations, 6 CFR 5.21.

The Privacy Act requires each agency to publish in the **Federal Register** a description denoting the type and character of each system of records that the agency maintains, and the routine uses that are contained in each system in order to make agency record keeping practices transparent, to notify individuals regarding the uses to which personally identifiable information is put, and to assist individuals to more easily find such files within the agency. Below is the description of the Personal Identity Verification Management system of records.

In accordance with 5 U.S.C. 552a(r), DHS has provided a report of this new system of records to the Office of Management and Budget and to Congress.

System of Records:

DHS/All—026

SYSTEM NAME:

DHS/ALL Personal Identity Verification Management System (PIVMS).

SECURITY CLASSIFICATION:

Sensitive but unclassified.

SYSTEM LOCATION:

Records are maintained at Headquarters in Washington, DC, and field offices. The physical and logical access systems at all DHS and component facilities will have system-level access to the PIVMS for real-time verification of user credentials.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Categories of individuals covered by this system include: All DHS employees, contractors and their employees, consultants, volunteers

engaged by DHS who require long-term access to Federally controlled facilities and information systems, as defined by Office of Management and Budget Memorandum 05–24; Federal emergency response officials; foreign nationals on assignment; and other Federal employees detailed or temporarily assigned to DHS in direct support of the DHS mission and who work in Federally controlled facilities or require access to Federal information technology systems. Individuals who require regular, ongoing access to agency facilities, information technology systems, or information classified in the interest of national security.

The system does not apply to occasional visitors or short-term guests to whom DHS will issue temporary identification and credentials.

CATEGORIES OF RECORDS IN THE SYSTEM:

Categories of records in this system include:

- Full name;
- Date of birth;
- Maiden name;
- Social Security Number;
- Citizenship;
- Mother's maiden name;
- Organization/office of assignment;
- Employee affiliation and status;
- Contact information, such as telephone number(s), work e-mail, and duty location;
- Copies of identity source documents;
- Fingerprints (10 print and 2 print);
- Identifying physical information, such as height, weight, hair color, eye color, and digital photograph;
- Financial history;
- PIV card issue and expiration dates;
- PIV request form;
- PIV registrar approval digital signature;
- PIV card serial number;
- Federal emergency response official designation, affiliation, and related roles;
- Computer system user name;
- User access and permission rights, authentication certificates;
- Clearance level;
- Entry on duty date;
- Digital signature information; and
- Weapons bearer designation.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; Federal Information Security Act (Pub. L. 104–106, Sec. 5113); E–Government Act (Pub. L. 104–347, sec. 203); the Paperwork Reduction Act of 1995 (44 U.S.C. 3501); and the Government Paperwork Elimination Act (Pub. L. 105–277, 44 U.S.C. 3504); Homeland Security Presidential Directive–12 (HSPD–12, issued August 27, 2004); Policy for a Common Identification Standard for Federal Employees and Contractors, August 27, 2004; Federal Property and Administrative Act of 1949, as amended (40 U.S.C. 483); the Intelligence Reform and Terrorism Prevention Act of 2004, Pub. L. 108–458, Section 3001 (50 U.S.C. 435b) and the Homeland Security Act of 2002, Pub. L. 107–296, as amended.

PURPOSE(S):

The purpose of this system is to:

- Ensure the safety and security of DHS facilities, systems, or information, and our occupants and users;
- Verify that all persons entering Federal facilities, using Federal information resources, are authorized to do so; and
- Track and control PIV cards issued to persons entering and exiting the DHS facilities or using DHS systems.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, all or a portion of the records or information contained in this system may be disclosed outside DHS as a routine use pursuant to 5 U.S.C. 552a(b)(3). Disclosures may be made to:

A. To the Department of Justice (DOJ) or other Federal agency conducting litigation or in proceedings before any court, adjudicative or administrative body, when:

1. DHS or any component thereof;

2. Any employee of DHS in his/her official capacity;

3. Any employee of DHS in his/her individual capacity where DOJ or DHS has agreed to represent the employee; or

4. The United States or any agency thereof, is a party to the litigation or has an interest in such litigation, and DHS determines that the records are both relevant and necessary to the litigation and the use of such records is compatible with the purpose for which DHS collected the records.

B. To a congressional office from the record of an individual in response to an inquiry from that congressional office made at the request of the individual to whom the record pertains.

C. To the National Archives and Records Administration or other Federal government agencies pursuant to records management inspections being conducted under the authority of 44 U.S.C. 2904 and 2906.

D. To an agency, organization, or individual for the purpose of performing audit or oversight operations as authorized by law, but only such information as is necessary and relevant to such audit or oversight function.

E. To appropriate agencies, entities, and persons when:

1. DHS suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised;

2. The Department has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by DHS or another agency or entity) that rely upon the compromised information; and

3. The disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with DHS's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

F. To contractors and their agents, grantees, experts, consultants, and others performing or working on a contract, service, grant, cooperative agreement, or other assignment for DHS, when necessary to accomplish an agency function related to this system of records. Individuals provided information under this routine use are subject to the same Privacy Act requirements and limitations on disclosure as are applicable to DHS officers and employees.

G. To an appropriate Federal, State, tribal, local, international, or foreign law enforcement agency or other appropriate authority charged with investigating or prosecuting a violation or enforcing or implementing a law, rule, regulation, or order, where a record, either on its face or in conjunction with other information, indicates a violation or potential violation of law, which includes criminal, civil, or regulatory violations and such disclosure is proper and consistent with the official duties of the person making the disclosure.

H. To the Department of Justice (DOJ) when:

1. The agency or any component thereof;

2. Any employee of the agency in his or her official capacity;

3. Any employee of the agency in his or her individual capacity where agency or the Department of Justice has agreed to represent the employee; or

4. The United States Government is a party to litigation or has an interest in such litigation, and by careful review, the agency determines that the records are both relevant and necessary to the

litigation and the use of such records by DOJ is therefore deemed by the agency to be for a purpose compatible with the purpose for which the agency collected the records.

I. To a court or adjudicative body in a proceeding when: (a) The agency or any component thereof; (b) any employee of the agency in his or her official capacity; (c) any employee of the agency in his or her individual capacity where agency or the Department of Justice has agreed to represent the employee; or (d) the United States Government is a party to litigation or has an interest in such litigation, and by careful review, the agency determines that the records are both relevant and necessary to the litigation and the use of such records is therefore deemed by the agency to be for a purpose that is compatible with the purpose for which the agency collected the records.

J. Except as noted on Forms SF 85, 85–P, and 86, when a record on its face, or in conjunction with other records, indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant thereto, disclosure may be made to the appropriate public authority, whether Federal, foreign, State, local, or tribal, or otherwise, responsible for enforcing, investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation, or order issued pursuant thereto, if the information disclosed is relevant to any enforcement, regulatory, investigative or prosecutorial responsibility of the receiving entity.

K. To a Federal, State, local, foreign, or tribal or other public authority the fact that this system of records contains information relevant to the retention of an employee, the retention of a security clearance, the letting of a contract, or the issuance or retention of a license, grant, or other benefit. The other agency or licensing organization may then make a request supported by the written consent of the individual for the entire record if it so chooses. No disclosure will be made unless the information has been determined to be sufficiently reliable to support a referral to another office within the agency or to another Federal agency for criminal, civil, administrative personnel or regulatory action.

L. To the Office of Management and Budget when necessary to the review of private relief legislation pursuant to OMB Circular No. A–19.

M. To a Federal, State, or local agency, or other appropriate entities or individuals, or through established liaison channels to selected foreign governments, in order to enable an intelligence agency to carry out its responsibilities under the National Security Act of 1947, as amended, the CIA Act of 1949, as amended, Executive Order 12333 or any successor order, applicable national security directives, or classified implementing procedures approved by the Attorney General and promulgated pursuant to such statutes, orders or directives.

N. To notify another Federal agency when, or verify whether, a PIV card is no longer valid.

O. To the news media and the public, with the approval of the Chief Privacy Officer in consultation with counsel, when there exists a legitimate public interest in the disclosure of the information or when disclosure is necessary to preserve confidence in the integrity of DHS or is necessary to demonstrate the accountability of DHS's officers, employees, or individuals covered by the system, except to the extent it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Privacy Act information may be reported to consumer reporting agencies pursuant to 5 U.S.C. 552a(b)(12).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records in this system are stored electronically or on paper in secure facilities in a locked drawer behind a locked door. The records are stored on magnetic disc, tape, digital media, paper in secure files, and CD–ROM.

RETRIEVABILITY:

Records may be retrieved by name of the individual, Social Security Number and/or by any other unique individual identifier.

SAFEGUARDS:

Records in this system are safeguarded in accordance with FISMA and other applicable rules and policies, including all applicable DHS automated systems security and access policies. Strict controls have been imposed to minimize the risk of compromising the information that is being stored. Access to the computer system containing the records in this system is limited to those individuals who have a need to know the information for the performance of their official duties and who have appropriate clearances or permissions. The system maintains a real-time auditing function of individuals who access the system. Additional safeguards may vary depending on the component and program.

RETENTION AND DISPOSAL:

Pursuant to GRS 18, Item 22a records used to initiate background investigations; register and enroll individuals; manage the PIV card lifecycle; and, verify, authenticate and revoke PIV cardholder access to Federal resources are destroyed upon notification of death or not later than 5 years after separation or transfer of employee or no later than 5 years after contract relationship expires, whichever is applicable.

Pursuant to GRS 11, Item PIV cards are destroyed three months after they are returned to the issuing office.

Pursuant to GRS 11, Item 4a identification credentials are destroyed by cross-cut shredding no later than 90 days after deactivation.

Pursuant to GRS 18, Item 17 registers or logs used to record names of outside contractors, service personnel, visitors, employees admitted to areas, and reports on automobiles and passengers for areas under maximum security are destroyed five years after final entry or five years after date of document, as appropriate.

Other documents pursuant to GRS 18, Item 17b are destroyed two years after final entry or two years after date of document, as appropriate.

SYSTEM MANAGER AND ADDRESS:

DHS HSPD–12 Program Director, Office of Security, U.S. Department of Homeland Security, 245 Murray Lane, SW., Building 410, Washington, DC 20528.

NOTIFICATION PROCEDURE:

Individuals seeking notification of and access to any record contained in this system of records, or seeking to contest its content, may submit a request in writing to the component's FOIA Officer, whose contact information can be found at *http://www.dhs.gov/foia* under ''contacts.'' If an individual believes more than one component maintains Privacy Act records concerning him or her the individual may submit the request to the Chief Privacy Officer, Department of Homeland Security, 245 Murray Drive, SW., Building 410, STOP–0550, Washington, DC 20528.

When seeking records about yourself from this system of records or any other Departmental system of records your

request must conform with the Privacy Act regulations set forth in 6 CFR part 5. You must first verify your identity, meaning that you must provide your full name, current address and date and place of birth. You must sign your request, and your signature must either be notarized or submitted under 28 U.S.C. 1746, a law that permits statements to be made under penalty or perjury as a substitute for notarization. While no specific form is required, you may obtain forms for this purpose from the Director, Disclosure and FOIA, *http://www.dhs.gov/foia* or 1–866–431–0486. In addition you should provide the following:

• An explanation of why you believe the Department would have information about you,

• Identify which component(s) of the Department you believe may have the information about you,

• Specify when you believe the records would have been created,

• Provide any other information that will help the FOIA staff determine which DHS component agency may have responsive records,

• If your request is seeking records pertaining to another living individual, you must include a statement from that individual certifying his/her agreement for you to access his/her records.

Without this bulleted information the component(s) will not be able to conduct an effective search, and your request may be denied due to lack of specificity or lack of compliance with applicable regulations.

RECORD ACCESS PROCEDURES:

See ''Notification Procedure'' above.

CONTESTING RECORD PROCEDURES:

See ''Notification Procedure'' above.

RECORD SOURCE CATEGORIES:

Records are obtained from the employee, contractor, or applicant; sponsoring agency; former sponsoring agency; other Federal agencies; contract employer; former employer.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Dated: June 18, 2009.

Mary Ellen Callahan,

Chief Privacy Officer, Department of Homeland Security.

[FR Doc. E9–14905 Filed 6–24–09; 8:45 am]

BILLING CODE 9110–9B–P

DEPARTMENT OF HOMELAND SECURITY

Office of the Secretary

[Docket No. DHS–2008–0110]

Privacy Act of 1974; United States Coast Guard—013 Marine Information for Safety and Law Enforcement (MISLE) System of Records

AGENCY: Privacy Office; DHS.

ACTION: Notice of Privacy Act system of records.

SUMMARY: In accordance with the Privacy Act of 1974, and as part of the Department of Homeland Security's ongoing effort to review and update legacy system of record notices, the Department of Homeland Security is giving notice that it proposes to add a system of records to its inventory of record systems titled United States Coast Guard Marine Information for Safety and Law Enforcement System of Records. This system is a compilation of five legacy record systems: DOT/CG 679, Marine Information for Safety and Law Enforcement System (April 22, 2002), DOT/CG 588, Marine Safety Information System (April 11, 2000), DOT/CG 505, Recreational Boating Law Enforcement Case Files (April 11, 2000), DOT/CG 590, Vessel Identification System (April 11, 2000), DOT/CG 591, Merchant Vessel Documentation System (April 11, 2000). This record system will allow the Department of Homeland Security/United States Coast Guard to collect and maintain records regarding marine, safety and law enforcement information. Categories of individuals, categories of records, and routine uses of these legacy system of records notices have been consolidated and updated to better reflect the United States Coast Guard's marine, safety and law enforcement information. Additionally, DHS is issuing a Notice of Proposed Rulemaking (NPRM) concurrent with this SORN elsewhere in the **Federal Register**. The exemptions for the legacy system of records notices will continue to be applicable until the final rule for this SORN has been completed. This new system will be included in the Department of Homeland Security's inventory of record systems.

DATES: Written comments must be submitted on or before July 27, 2009. This new system will be effective July 27, 2009.

ADDRESSES: You may submit comments, identified by docket number DHS–2008–0110 by one of the following methods:

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

• *Fax:* 703–483–2999.

• *Mail:* Mary Ellen Callahan, Chief Privacy Officer, Privacy Office, Department of Homeland Security, Washington, DC 20528.

• *Instructions:* All submissions received must include the agency name and docket number for this rulemaking. All comments received will be posted without change and may be read at *http://www.regulations.gov,* including any personal information provided.

• *Docket:* For access to the docket, to read background documents, or comments received, go to *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: For general questions please contact: David Roberts (202–475–3521), Privacy Officer, United States Coast Guard. For privacy issues please contact: Mary Ellen Callahan (703–235–0780), Chief Privacy Officer, Privacy Office, U.S. Department of Homeland Security, Washington, DC 20528.

SUPPLEMENTARY INFORMATION:

I. Background

Pursuant to the savings clause in the Homeland Security Act of 2002, Public Law 107–296, Section 1512, 116 Stat. 2310 (Nov. 25, 2002), the Department of Homeland Security (DHS)/United States Coast Guard (USCG) have relied on preexisting Privacy Act systems of records notices for the collection and maintenance of records regarding marine, safety and law enforcement information.

As part of its efforts to streamline and consolidate its record systems, DHS is updating and reissuing a USCG system of records under the Privacy Act (5 U.S.C. 552a) that deals with marine safety and law enforcement information. This record system will allow DHS/USCG to collect and maintain records regarding marine safety and law enforcement information. This record system will allow the Department of Homeland Security/United States Coast Guard to collect and maintain records regarding marine information and law enforcement information.

In accordance with the Privacy Act of 1974, and as part of the Department of Homeland Security's ongoing effort to review and update legacy system of record notices, the Department of Homeland Security is giving notice that it proposes to add a system of records to its inventory of record systems titled United States Coast Guard Marine Information System and Law Enforcement System of Records. This

system is a compilation of five legacy record systems: DOT/CG 679, Marine Information for Safety and Law Enforcement System (67 FR 19612 April 22, 2002), DOT/CG 588, Marine Safety Information System (65 FR 19475 April 11, 2000), DOT/CG 505, Recreational Boating Law Enforcement Case Files (65 FR 19475 April 11, 2000), DOT/CG 590, Vessel Identification System (65 FR 19475 April 11, 2000), DOT/CG 591, Merchant Vessel Documentation System (65 FR 19475 April 11, 2000). This record system will allow the Department of Homeland Security/United States Coast Guard to collect and maintain records regarding marine safety, security, environmental protection and law enforcement information. Categories of individuals, categories of records, and routine uses of these legacy systems of records notices have been consolidated and updated to better reflect the United States Coast Guard's marine safety, security, environmental protection and law enforcement record systems. Additionally, DHS is issuing a Notice of Proposed Rulemaking (NPRM) concurrent with this SORN elsewhere in the **Federal Register**. The exemptions for the legacy system of records notices will continue to be applicable until the final rule for this SORN has been completed. This new system will be included in the Department of Homeland Security's inventory of record systems.

II. Privacy Act

The Privacy Act embodies fair information principles in a statutory framework governing the means by which the United States Government collects, maintains, uses and disseminates personally identifiable information. The Privacy Act applies to information that is maintained in a ''system of records.'' A ''system of records'' is a group of any records under the control of an agency from which information is stored and retrieved by the name of the individual or by some identifying number such as property address, mailing address, or symbol assigned to the individual. In the Privacy Act, an individual is defined to encompass United States citizens and legal permanent residents. DHS extends administrative Privacy Act protections to all individuals where information is maintained on both U.S. citizens, lawful permanent residents, and visitors. Individuals may request their own records that are maintained in a system of records in the possession or under the control of DHS by complying with DHS Privacy Act regulations, 6 CFR Part 5.

The Privacy Act requires each agency to publish in the **Federal Register** a description denoting the type and character of each system of records that the agency maintains, and the routine uses that are contained in each system in order to make agency record keeping practices transparent, to notify individuals regarding the uses of their records, and to assist individuals to more easily find such files within the agency. Below is the description of the Marine Information for Safety and Law Enforcement System of Records.

In accordance with 5 U.S.C. 552a(r), DHS has provided a report of this new system of records to the Office of Management and Budget and to Congress.

System of Records

DHS/USCG–013

SYSTEM NAME:

United States Coast Guard Marine Information for Safety and Law Enforcement (MISLE).

SECURITY CLASSIFICATION:

Sensitive, but Unclassified.

SYSTEM LOCATION:

Records are maintained at the United States Coast Guard (USCG) Headquarters in Washington, DC, the USCG Operations Systems Center, Kearneysville, WV, and other field locations.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals with established relationship(s) and/or associations with vessels and marine transportation facilities and activities regulated by the USCG. Specifically, vessel owners, operators, charterers, masters, crew and/or agents, mortgagees, lien claimants, vessel builders, facility owners, managers or employees, individuals who own, operate, or represent marine transportation companies and other individuals who come in contact with the USCG through its law enforcement, marine safety, investigation, and environmental activities.

CATEGORIES OF RECORDS IN THE SYSTEM:

Categories of records in this system include:

- Name of individual, vessel, or facility;
- Home and work addresses;
- Phone numbers;
- Facility number, involved party identification number, social security number, drivers license number, Immigration and Naturalization Service number, military identification number, U.S. Coast Guard license number, cellular number, foreign seaman's booklet number, resident alien number, merchant mariners license or documentation number, tax payer identification number;
- Casualty case number;
- Pollution incident case number;
- Date of incident;
- Civil penalty case number;
- Biometric information through photographs including height, weight, eye color and hair color;
- Videos;
- Information on vessels and vessel characteristics including: Vessel identification data, registration data, port visits, inspection data, documentation data, port safety boarding, casualties, pollution incidents, and civil violations if applicable and associated information (data pertaining to people or organizations associated with vessels);
- Information on marine transportation facilities including: Name, identification number, location, commodities handled, equipment certificates, approvals, inspection reports, pollution incidents, casualties, violations of U.S. laws, and data pertaining to people or organizations associated with those facilities;
- For owners, operators, agents, and crew members: Statements submitted by USCG relating to boarding, investigations as a result of a pollution and/or casualty incident, as well as any violations of United States law, along with civil penalty actions taken as a result of such violations. Such reports could contain names of passengers on vessels, as well as witnesses to such violations.
- Narratives, reports and documents by USCG personnel describing their activates on vessels and within facilities including incident reports, violations of laws and international treaties,

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 14 U.S.C 89a, 93(a) and (c), 632; 16 U.S.C 1431; The Federal Records Act, 33 U.S.C 1223; 33 U.S.C. 1228; 44 U.S.C. 3101; 46 U.S.C. 3717; 46 U.S.C. 12501; 46 U.S.C. 12119; 12502; 46 CFR par 67.1 *et seq.;* 49 CFR 1.45, 1.46.

PURPOSE(S):

The purpose of this system is to establish a safety, security and law enforcement performance history of vessels, facilities, people and organizations engaged in marine transportation, including enforcement action, that can be used to identify and address safety, security and environmental risks and to establish vessel eligibility for documentation as a U.S. flag vessel.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, all or a portion of the records of information contained in this system may be disclosed outside DHS as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

A. To the Department of Justice or other Federal agency conducting litigation or in proceedings before any court, adjudicative or administrative body, when:

1. DHS or any component thereof;

2. Any employee of DHS in his/her official capacity;

3. Any employee of DHS in his/her individual capacity where DOJ or DHS has agreed to represent the employee; or

4. The United States or any agency thereof, is a party to the litigation or has an interest in such litigation, and DHS determines that the records are both relevant and necessary to the litigation and the use of such records is compatible with the purpose for which DHS collected the records.

B. To a congressional office from the record of an individual in response to an inquiry from that congressional office made at the request of the individual to whom the record pertains.

C. To the National Archives and Records Administration or other Federal government agencies pursuant to records management inspections being conducted under the authority of 44 U.S.C. 2904 and 2906.

D. To an agency, organization, or individual for the purpose of performing audit or oversight operations as authorized by law, but only such information as is necessary and relevant to such audit or oversight function.

E. To appropriate agencies, entities, and persons when:

1. DHS suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised;

2. The Department has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by DHS or another agency or entity) or harm to the individual who relies upon the compromised information; and

3. The disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with DHS's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

F. To contractors and their agents, grantees, experts, consultants, and others performing or working on a contract, service, grant, cooperative agreement, or other assignment for DHS, when necessary to accomplish an agency function related to this system of records. Individuals provided information under this routine use are subject to the same Privacy Act requirements and limitations on disclosure as are applicable to DHS officers and employees.

G. To an appropriate Federal, State, Tribal, local, international, or foreign law enforcement agency or other appropriate authority charged with investigating or prosecuting a violation or enforcing or implementing a law, rule, regulation, or order, where a record, either on its face or in conjunction with other information, indicates a violation or potential violation of law, which includes criminal, civil, or regulatory violations and such disclosure is proper and consistent with the official duties of the person making the disclosure.

H. To Federal and State safety enforcement agencies, including, but not limited to, the Maritime Administration, U.S. Department of Transportation, and National Transportation Safety Board, to access historical data that may assist in safety investigations and improve transportation safety.

I. To Federal, State, and local environmental agencies, including, but not limited to, the U.S. Environmental Protection Agency, to access historical data that may improve compliance with U.S. laws relating to environmental protection.

J. To the United States Department of Commerce and National Technical Information Service (NTIS) to provide the characteristics of vessels documented by the USCG and owner information. This information is the same as that published in the annual publication ''Merchant Vessels of the United States'' (also known as the ''blue book''). This information is distributed electronically and is sold to the public.

K. To Federal and State numbering and titling officials to access information for improving the tracking, registering, and titling of vessels.

L. To the U.S. Department of Defense and related entities, including, but not limited to, the Military Sealift Command and U.S. Navy, to access data on safety information regarding vessels chartered by those agencies.

M. To other Federal and State agencies not listed above, including, but not limited to, the U.S. Census Bureau, U.S. Department of Labor, and U.S. Department of Commerce, to access historical data for improving general statistical information.

N. To the International Maritime Organization or intergovernmental organizations, nongovernmental organizations, or foreign governments in order to conduct joint investigations, operations, and inspections;

O. To Federal, State, or local agencies with which the U.S. Coast Guard Memorandum or Understanding, Memorandum of Agreement, or Inspection and Certification Agreement pertaining to Marine Safety, Maritime Security, Maritime Law Enforcement, and Marine Environmental Protection activities.

P. To the news media and the public, with the approval of the Chief Privacy Officer in consultation with counsel, when there exists a legitimate public interest in the disclosure of the information or when disclosure is necessary to preserve confidence in the integrity of DHS or is necessary to demonstrate the accountability of DHS's officers, employees, or individuals covered by the system, except to the extent it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records in this system are stored electronically or in paper form in file cabinets, in file rooms, in secure facilities behind a locked door. Electronic records are stored on magnetic disc, tape, digital media, and CD–ROM.

RETRIEVABILITY:

Records may be retrieved by name of individual, vessel, or facility, facility number, involved party identification number, social security number, drivers license number, Immigration and Naturalization Service number, military identification number, U.S. Coast Guard license number, cedula number, foreign seaman's booklet number, resident alien number, merchant mariners license or documentation number, tax payer identification number person or organization name, casualty case number, pollution incident case number, date of incident, civil penalty

case number, USCG unit entering data or incident location.

SAFEGUARDS:

Records in this system are safeguarded in accordance with applicable rules and policies, including all applicable DHS automated and paper systems security and access policies. Strict controls have been imposed to minimize the risk of compromising the information that is being stored. Access to the computer system and paper files containing the records in this system is limited to those individuals who have a need to know the information for the performance of their official duties and who have appropriate clearances or permissions.

RETENTION AND DISPOSAL:

Records are retained indefinitely because the records schedules are currently pending. A copy of this system has been transferred to the National Archives and Records Administration permanent records collection. The following records schedule has been proposed:

A. Notifications associated with a Case or Activity are considered historically important and so are maintained permanently by the National Archives. USCG will transfer the records to the National Archives at least every five years after the close of a case or activity. In some cases, information may transferred prior to the five years.

B. Notifications not associated with a Case or Activity are maintained for five years and then destroyed or deleted. Information collected by MISLE is stored for a minimum of five years after the record is created, after which the information will be retained, archived or destroyed in accordance with the MISLE Records Schedule approved by the National Archives and Records Administration. All system hardware and data is stored at OSC, Kearneysville, WV. Backups are performed daily. Copies of backups are stored at an off-site location.

SYSTEM MANAGER AND ADDRESS:

United States Coast Guard, Operations Systems Management Division, CG–635, 2100 2nd Street, SW., Washington, DC 20593–0001; Boating Safety Division, CG–5422; United States Coast Guard National Vessel Documentation Center, 792 T J Jackson Drive, Falling Waters, WV 25419.

NOTIFICATION PROCEDURE:

Individuals seeking notification of and access to any record contained in this system of records, or seeking to contest its content, may submit a request in writing to USCG, Commandant (CG–611), 2100 2nd St., SW., Attn: FOIA Coordinator, Washington, DC 20593–0001. Specific FOIA contact information can be found at *http://www.dhs.gov/foia* under ''contacts.''

When seeking records about yourself from this system of records or any other USCG system of records your request must conform with the Privacy Act regulations set forth in 6 CFR Part 5. You must first verify your identity, meaning that you must provide your full name, current address and date and place of birth. You must sign your request, and your signature must either be notarized or subscribed to pursuant to 28 U.S.C. 1746, a law that permits statements to be made under penalty or perjury as a substitute for notarization. While no specific form is required, you may obtain forms for this purpose form the Director, Disclosure and FOIA, *http://www.dhs.gov* or 1–866–431–0486. In addition you should provide the following:

- An explanation of why you believe the Department would have information on you,
- Specify when you believe the records would have been created,
- If your request is seeking records pertaining to another living individual, you must include a statement from that individual certifying his/her agreement for you to access his/her records.

Without this bulleted information the USCG may not be able to conduct an effective search, and your request may be denied due to lack of specificity or lack of compliance with applicable regulations.

RECORD ACCESS PROCEDURES:

See ''Notification procedure'' above.

CONTESTING RECORD PROCEDURES:

See ''Notification procedure'' above.

RECORD SOURCE CATEGORIES:

All information entered into the MISLE is gathered from USCG boarding, USCG inspections, and USCG documentation offices, vessel notice of arrival reports in the course of normal routine business. This information is gathered from the owners, operators, crew members, agents, passengers, witnesses, other government agencies and United States Coast Guard personnel.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

The Secretary of Homeland Security has exempted this system from subsections (c)(3) and (4); (d); (e)(1), (2), (3), (5), and (8); and (g) of the Privacy Act pursuant to 5 U.S.C. 552a(j)(2). In additional, the Secretary of Homeland Security has exempted this system from subsections (c)(3), (d), (e)(1), (e)(4)(G), (H), (I), and (f) of the Privacy Act pursuant to 5 U.S.C. 552a(k)(2).

Dated: June 18, 2009.

Mary Ellen Callahan,

Chief Privacy Officer,

Department of Homeland Security.

[FR Doc. E9–14906 Filed 6–24–09; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Office of the Secretary

[Docket No. DHS–2009–0016]

Privacy Act of 1974; Department of Homeland Security/United States Coast Guard—030 Merchant Seamen's Records System of Records

AGENCY: Privacy Office; DHS.

ACTION: Notice of Privacy Act system of records.

SUMMARY: In accordance with the Privacy Act of 1974 and as part of the Department of Homeland Security's ongoing effort to review and update legacy system of records notices, the Department of Homeland Security is giving notice that it proposes to update and reissue the following legacy record system DOT/CG 589 United States Merchant Seamen's Records, April 11, 2000, as a Department of Homeland Security system of records notice titled DHS/USCG—030 United States Merchant Seamen's Records. The Department of Homeland Security uses DHS/USCG—030 United States Merchant Seamen's Records to administer the Commercial Vessel Safety Program and to determine domestic and international qualification for the issuance of licenses, documents, and staff officer certifications. Categories of individuals, categories of records, and the routine uses of this legacy system of records notice have been reviewed and updated to better reflect the United States Merchant Seamen's Records system. Additionally, DHS is issuing a Notice of Proposed Rulemaking (NPRM) concurrent with this SORN elsewhere in the **Federal Register**. The exemptions for the legacy system of records notices will continue to be applicable until the final rule for this SORN has been completed. This new system will be included in the Department of Homeland Security's inventory of record systems.

DATES: Written comments must be submitted on or before July 27, 2009. This new system will be effective July 27, 2009.

ADDRESSES: You may submit comments, identified by docket number DHS–2009–0016] by one of the following methods:

- *Federal e-Rulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* 703–483–3099.
- *Mail:* Mary Ellen Callahan, Chief Privacy Officer, Privacy Office, Department of Homeland Security, Washington, DC 20528.
- *Instructions:* All submissions received must include the agency name and docket number for this rulemaking. All comments received will be posted without change and may be read at *http://www.regulations.gov,* including any personal information provided.
- *Docket:* For access to the docket, to read background documents, or comments received, go to *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: For general questions please contact: David Roberts (202–475–3521), Privacy Officer, United States Coast Guard. For privacy issues please contact: Mary Ellen Callahan (703–235–0780), Chief Privacy Officer, Privacy Office, U.S. Department of Homeland Security, Washington, DC 20528.

SUPPLEMENTARY INFORMATION:

I. Background

Pursuant to the savings clause in the Homeland Security Act of 2002, Public Law 107–306, Section 1512, 116 Stat. 2310 (November 25, 2002), the Department of Homeland Security (DHS)/United States Coast Guard (USCG) has relied on previous Privacy Act systems of records notices for the collection maintenance of records that concern the United States Merchant Seamen's Records system of records.

As part of its efforts to streamline and consolidate its record systems, DHS is updating and reissuing a DHS/USCG system of records under the Privacy Act (5 U.S.C. 552a) that deals with United States Merchant Seamen's Records program management. The collection and maintenance of this information will assist DHS/USCG in meeting its obligation to administer the United States Merchant Seamen's Records program.

In accordance with the Privacy Act of 1974 and as part of DHS's ongoing effort to review and update legacy system of records notices, DHS/USCG is giving notice that it proposes to update and reissue the following legacy record system DOT/CG 589 United States Merchant Seamen's Records (65 FR 19476 April 11, 2000) as a DHS/USCG system of records notice titled, DHS/USCG—030 United States Merchant Seamen's Records. The DHS/USCG—030 United States Merchant Seamen's Records system is the USCG's information system that administers the Commercial Vessel Safety Program to determine domestic and international qualifications for the issuance of licenses, documents, and staff officer certifications. Categories of individuals, categories of records, and the routine uses for this legacy system of records notice have been reviewed and updated to better reflect the United States Merchant Seamen's Records record system. This new system will be included in DHS's inventory of record systems. Additionally, DHS is issuing a Notice of Proposed Rulemaking (NPRM) concurrent with this SORN elsewhere in the **Federal Register**. The exemptions for the legacy system of records notices will continue to be applicable until the final rule for this SORN has been completed. This new system will be included in the Department of Homeland Security's inventory of record systems.

II. Privacy Act

The Privacy Act embodies fair information principles in a statutory framework governing the means by which the United States Government collects, maintains, uses, and disseminates individuals' records. The Privacy Act applies to information that is maintained in a ''system of records.'' A ''system of records'' is a group of any records under the control of an agency for which information is retrieved by the name of an individual or by some identifying number, symbol, or other identifying particular assigned to the individual. In the Privacy Act, an individual is defined to encompass United States citizens and lawful permanent residents. As a matter of policy, DHS extends administrative Privacy Act protections to all individuals where systems of records maintain information on U.S. citizens, lawful permanent residents, and visitors. Individuals may request access to their own records that are maintained in a system of records in the possession or under the control of DHS by complying with DHS Privacy Act regulations, 6 CFR Part 5.

The Privacy Act requires each agency to publish in the **Federal Register** a description denoting the type and character of each system of records that the agency maintains, and the routine uses that are contained in each system in order to make agency record keeping practices transparent, to notify individuals regarding the uses of their records, and to assist individuals to more easily find such files within the agency. Below is the description of the United States Merchant Seamen's Records System of Records.

In accordance with 5 U.S.C. 552a(r), DHS has provided a report of this new system of records to the Office of Management and Budget and to Congress.

SYSTEM OF RECORDS

DHS/USCG–030

SYSTEM NAME:

DHS/USCG—030 United States Merchant Seamen's Records

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

Records are maintained at the National Maritime Center in Martinsburg, WV, the USCG Headquarters in Washington, DC, the USCG Operations Systems Center in Kearneysville, WV, and in Regional Examination Centers. Archived records are located at the regional Federal Records Centers.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Categories of individuals covered by this system include all current and former United States Merchant Seamen, as well as applicants.

CATEGORIES OF RECORDS IN THE SYSTEM:

Categories of records in this system include:

- Full name (including maiden name, if applicable);
- Employee identification number;
- Mailing address;
- Date and place of birth;
- Phone number(s), include home, work, fax;
- E-mail Address;
- Next of Kin's Name, mailing address, phone number and email address;
- Country of citizenship;
- Social Security number;
- Color of eyes, hair, weight and height;
- Type of license or certificate for which the individual is applying;
- Shipping articles;
- Log books;
- Seamen's license records;
- Seamen's biometrics including photographs and fingerprint records;
- Disciplinary records;
- Security records;
- Current state of application, including granted or denied with place and date of issuance;

• Information related to narcotics, drinking while under the influence, and conviction records; and

• Character references, including full name, contact information.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 14 U.S.C. 632; 46 U.S.C. 2103, 7302, 7305, 7314, 7316, 7319, 7502, 7701, 8701; 46 CFR 12.02–25; 49 CFR 1.45, 1.46.

PURPOSE(S):

The principle purpose of this system is to administer the Commercial Vessel Safety Program to determine domestic and international qualifications for the issuance of licenses, documents, and staff officer certifications. This includes establishing eligibility of a merchant mariner's document, duplicate documents, or additional endorsements issued by the Coast Guard and establishing and maintaining continuous records of the persons documentation transactions.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, all or a portion of the records of information contained in this system may be disclosed outside DHS as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

A. To the Department of Justice (including United States Attorney Offices) or other Federal agency conducting litigation or in proceedings before any court, adjudicative or administrative body when it is necessary to the litigation and one of the following is a party to the litigation or has an interest in such litigation:

1. DHS or any component thereof;

2. Any employee of DHS in his/her official capacity;

3. Any employee of DHS in his/her individual capacity where DOJ or DHS has agreed to represent the employee; or

4. The United States or any agency thereof, is a party to the litigation or has an interest in such litigation, and DHS determines that the records are both relevant and necessary to the litigation and the use of such records is compatible with the purpose for which DHS collected the records.

B. To a congressional office from the record of an individual in response to an inquiry from that congressional office made at the request of the individual to whom the record pertains.

C. To the National Archives and Records Administration or other Federal government agencies pursuant to records management inspections being conducted under the authority of 44 U.S.C. 3004 and 3006.

D. To an agency, organization, or individual for the purpose of performing audit or oversight operations as authorized by law, but only such information as is necessary and relevant to such audit or oversight function.

E. To appropriate agencies, entities, and persons when:

1. DHS suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised;

2. The Department has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by DHS or another agency or entity) or harm to the individual who relies upon the compromised information; and

3. The disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with DHS's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

F. To contractors and their agents, grantees, experts, consultants, and others performing or working on a contract, service, grant, cooperative agreement, or other assignment for DHS, when necessary to accomplish an agency function related to this system of records. Individuals provided information under this routine use are subject to the same Privacy Act requirements and limitations on disclosure as are applicable to DHS officers and employees.

G. To an appropriate Federal, State, tribal, local, international, or foreign law enforcement agency or other appropriate authority charged with investigating or prosecuting a violation or enforcing or implementing a law, rule, regulation, or order, where a record, either on its face or in conjunction with other information, indicates a violation or potential violation of law, which includes criminal, civil, or regulatory violations and such disclosure is proper and consistent with the official duties of the person making the disclosure.

H. To private organizations when considered beneficial to the seaman.

I. To other Federal Agencies, such as the Veteran's Administration, the Social Security Administration, the Internal Revenue Service, in connection with benefits and services administered by those agencies.

J. To any source or potential source from which information is requested in the course of an investigation concerning the retention of an employee or other personnel action (other than hiring), or the retention of a security clearance, contract, grant, license, or other benefit, to the extent necessary to identify the individual, inform the source of the nature and purpose of the investigation, and to identify the type of information requested.

K. To designated officers and employees of Federal, State, local or international agencies in connection with the hiring or continued employment of an individual, the conduct of a suitability or security investigation of an individual, the grant, renewal, suspension, or revocation of a security clearance, or the certification of security clearances, to the extent that DHS determines the information is relevant and necessary to the hiring agency's decision.

L. To the Maritime Administration for the purpose of merchant mariner call-ups related to national security.

M. To the U.S. Navy for the purpose of verifying the credential status of Navy personnel.

N. To the news media and the public, with the approval of the Chief Privacy Officer in consultation with counsel, when there exists a legitimate public interest in the disclosure of the information or when disclosure is necessary to preserve confidence in the integrity of DHS or is necessary to demonstrate the accountability of DHS's officers, employees, or individuals covered by the system, except to the extent it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosures pursuant to 5 U.S.C552a(b)(12) may be made from this system to ''consumer reporting agencies,'' as defined in the Fair Credit Reporting Act (15 U.S. C. 1681a(f)) or Federal Claims Collection Act of 1982 (31 U.S.C 3701(a)(3)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper files are stored at a secure, controlled access site managed by either Coast Guard personnel or contract personnel with oversight from Coast Guard personnel. Electronic records are stored on a secure database server at the Coast Guard Operation Systems Center.

Inactive records are stored by the National Archives and Records Administration at that agency's Federal Records Centers facilities.

RETRIEVABILITY:

Information is retrieved by individual's name and identifying number (*e.g.* Social Security, MMLD assigned system number or Continuous Discharge Book number) .

SAFEGUARDS:

Electronic records in this system are safeguarded in accordance with applicable rules and policies, including all applicable DHS automated systems security and access policies. Strict controls have been imposed to minimize the risk of compromising the information that is being stored. Access to the computer system containing the records in this system is limited to those individuals who have a need to know the information for the performance of their official duties and who have appropriate clearances or permissions. Paper records related to issuance of Merchant Mariners' Licenses and Documents (MMLD) are located in Coast Guard Regional Examination Centers or the National Maritime Center in locked file cabinets. Access to records is limited to personnel requiring access for their jobs.

RETENTION AND DISPOSAL:

Paper records related to issuance of Merchant Mariner Licenses and Documents are held on site for five years past the last activity with the file. After that time they are then transferred to the Washington National Records Center in Suitland, MD. As disposition is pending on this system contingent on NARA approval, records are maintained indefinitely.

SYSTEM MANAGER AND ADDRESS:

United States Coast Guard, National Maritime Center, NMC–4, 100 Forbes Drive, Martinsburg, WV 25404.

NOTIFICATION PROCEDURE:

Individuals seeking notification of and access to any record contained in this system of records, or seeking to contest its content, may submit a request in writing to United States Coast Guard, National Maritime Center, NMC–4, 100 Forbes Drive, Martinsburg, WV 25404.

When seeking records about yourself from this system of records or any other USCG system of records your request must conform with the Privacy Act regulations set forth in 6 CFR Part 5. You must first verify your identity, meaning that you must provide your full name, current address and date and place of birth. You must sign your request, and your signature must either be notarized or submitted under 28 U.S.C. 1746, a law that permits statements to be made under penalty of perjury as a substitute for notarization. While no specific form is required, you may obtain forms for this purpose from the Director, Disclosure and FOIA, *http://www.dhs.gov* or 1–866–431–0486. In addition you should provide the following:

- An explanation of why you believe the Department would have information on you;
- Specify when you believe the records would have been created;
- If your request is seeking records pertaining to another living individual, you must include a statement from that individual certifying his/her agreement for you to access his/her records.

Without this bulleted information the USCG may not be able to conduct an effective search, and your request may be denied due to lack of specificity or lack of compliance with applicable regulations.

RECORD ACCESS PROCEDURES:

See ''Notification procedure'' above.

CONTESTING RECORD PROCEDURES:

See ''Notification procedure'' above.

RECORD SOURCE CATEGORIES:

Personnel File-seamen, United States Coast Guard officials, other Federal Agencies, and employer. Shipping Articles—Vessels' operators, seamen, masters of vessels, State Department, and Coast Guard officials. Training records—schools certified to provide training for U.S. mariners. Medical records—physicians, hospitals and other medical providers authorized by mariners to provide this information on their behalf. Disciplinary Records-Coast Guard Investigating Officers.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

The Secretary of Homeland Security has exempted this system from subsections (c)(3), (d), (e)(1), (e)(4)(G), (H), (I), and (f) of the Privacy Act pursuant to 5 U.S.C. 552a(k)(2).

Dated: June 18, 2009.

Mary Ellen Callahan,

Chief Privacy Officer, Department of Homeland Security.

[FR Doc. E9–14911 Filed 6–24–09; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

Agency Information Collection Activities: H–2 Petitioner's Employment Related or Fee Related Notification; Extension of an Existing Information Collection; Comment Request

ACTION: 30-day notice of information collection under review: H–2 Petitioner's Employment Related or Fee Related Notification; OMB Control No. 1615–0107.

The Department of Homeland Security, U.S. Citizenship and Immigration Services (USCIS) has submitted the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995. The information collection was previously published in the **Federal Register** on April 15, 2009, at 74 FR 17503, allowing for a 60-day public comment period. USCIS did not receive any comments.

The purpose of this notice is to allow an additional 30 days for public comments. Comments are encouraged and will be accepted until July 27, 2009. This process is conducted in accordance with 5 CFR 1320.10.

Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the Department of Homeland Security (DHS), and to the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), USCIS Desk Officer. Comments may be submitted to: USCIS, Chief, Regulatory Products Division, Clearance Office, 111 Massachusetts Avenue, Washington, DC 20529–2210. Comments may also be submitted to DHS via facsimile to 202–272–8352 or via e-mail at *rfs.regs@dhs.gov,* and to the OMB USCIS Desk Officer via facsimile at 202–395–5806 or via e-mail at *oira_submission@omb.eop.gov.*

When submitting comments by e-mail, please make sure to add OMB Control No. 1615–0107 in the subject box. Written comments and suggestions from the public and affected agencies should address one or more of the following four points:

(1) Evaluate whether the collection of information is necessary for the proper performance of the functions of the

agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques, or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Extension of an existing information collection.

(2) *Title of the Form/Collection:* H–2 Petitioner's Employment Related or Fee Related Notification.

(3) *Agency form number, if any, and the applicable component of the Department of Homeland Security sponsoring the collection:* No form number. U.S. Citizenship and Immigration Services.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Individuals and households. The notification requirement is necessary to ensure that alien workers maintain their nonimmigrant status and will help prevent H–2 workers from engaging in unauthorized employment.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 1,700 respondents at 30 minutes (.50) per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 850 annual burden hours.

If you need a copy of the information collection instrument, please visit the Web site at: *http://www.regulations.gov/fdmspublic/component/main.*

We may also be contacted at: USCIS, Regulatory Products Division, 111 Massachusetts Avenue, NW., Washington, DC 20529–2210, telephone number 202–272–8377.

Dated: June 22, 2009.

Stephen Tarragon,

Deputy Chief, Regulatory Products Division, U.S. Citizenship and Immigration Services.

[FR Doc. E9–15007 Filed 6–24–09; 8:45 am]

BILLING CODE 9111–97–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

Agency Information Collection Activities: Form I–360, Revision of an Existing Information Collection; Comment Request

ACTION: 60-day notice of information collection under review: Form I–360, Petition for Amerasian, Widow, or Special Immigrant. OMB Control No. 1615–0020.

The Department of Homeland Security, U.S. Citizenship and Immigration Services (USCIS) has submitted the following information collection request for review and clearance in accordance with the Paperwork Reduction Act of 1995. The information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for sixty days until August 24, 2009.

Written comments and suggestions regarding items contained in this notice, especially with regard to the estimated public burden and associated response time, should be directed to the Department of Homeland Security (DHS), USCIS, Chief, Regulatory Products Division, Clearance Office, 111 Massachusetts Avenue, NW., Washington, DC 20529–2210. Comments may also be submitted to DHS via facsimile to 202–272–8352, or via e-mail at rfs.regs@dhs.gov. When submitting comments by e-mail, please add the OMB Control Number 1615–0020 in the subject box.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Revision of a currently approved information collection.

(2) *Title of the Form/Collection:* Petition for Amerasian, Widow, or Special Immigrant.

(3) *Agency form number, if any, and the applicable component of the Department of Homeland Security sponsoring the collection:* Form I–360. U.S. Citizenship and Immigration Services.

(4) *Affected public who will be asked or required to respond, as well as brief abstract: Primary:* Individuals or households. This information collection is used by several prospective classes of aliens who intend to establish their eligibility to immigrate to the United States.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 8,984 responses at 2 hours per response, 5,000 responses at 3 hours per response, and 4,700 at 2.25 hours per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 43,543 annual burden hours.

If you need a copy of the information collection instrument, please visit the Web site at: *http://www.regulations.gov.*

We may also be contacted at: USCIS, Regulatory Products Division, 111 Massachusetts Avenue, NW., Washington, DC 20529–2210, Telephone number 202–272–8377.

Dated: June 22, 2009.

Stephen Tarragon,

Deputy Chief, Regulatory Products Division, U.S. Citizenship and Immigration Services.

[FR Doc. E9–15008 Filed 6–24–09; 8:45 am]

BILLING CODE 9111–97–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

Agency Information Collection Activities: Form I–690; Extension of an Existing Information Collection; Comment Request

ACTION: 60-day notice of information collection under review: Form I–690, Application for Waiver of Grounds of Excludability; OMB Control Number 1615–0032.

The Department of Homeland Security, U.S. Citizenship and Immigration Services (USCIS) has submitted the following information collection request for review and clearance in accordance with the Paperwork Reduction Act of 1995. The information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for sixty days until August 24, 2009.

During this 60-day period, USCIS will be evaluating whether to revise the Form I–690. Should USCIS decide to revise Form I–690 we will advise the public when we publish the 30-day notice in the **Federal Register** in accordance with the Paperwork Reduction Act. The public will then have 30 days to comment on any revisions to the Form I–690.

Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the Department of Homeland Security (DHS), USCIS, Chief, Regulatory Products Division, Clearance Office, 111 Massachusetts Avenue, NW., Washington, DC 20529–2210. Comments may also be submitted to DHS via facsimile to 202–272–8352 or via e-mail at *rfs.regs@dhs.gov.* When submitting comments by e-mail, please make sure to add OMB Control Number 1615–0032 in the subject box. Written comments and suggestions from the public and affected agencies concerning the collection of information should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Extension of a currently approved information collection.

(2) *Title of the Form/Collection:* Application for Waiver of Grounds of Excludability.

(3) *Agency form number, if any, and the applicable component of the Department of Homeland Security sponsoring the collection:* Form I–690. U.S. Citizenship and Immigration Services (USCIS).

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Individuals or Households. USCIS will use this form to determine whether applicants are eligible for admission to the United States under sections 210 and 245A of the Act.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 85 responses at 15 minutes (.25) per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 21 annual burden hours.

If you need a copy of the information collection instrument, please visit the Web site at: *http://www.regulations.gov*.

We may also be contacted at: USCIS, Regulatory Products Division, 111 Massachusetts Avenue, NW., Washington, DC 20529–2210, Telephone number 202–272–8377.

Dated: June 18, 2009.

Sunday Aigbe,

Chief, Regulatory Products Division, U.S. Citizenship and Immigration Services.

[FR Doc. E9–15004 Filed 6–24–09; 8:45 am]

BILLING CODE 9111–97–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

Agency Information Collection Activities: Form I–192; Extension of an Existing Information Collection; Comment Request

ACTION: 60-day notice of information collection under review; Form I–192, Application for Advance Permission to Enter as Nonimmigrant (Pursuant to 212(d)(3) of the Immigration and Nationality Act); OMB Control No. 1615–0017.

The Department of Homeland Security, U.S. Citizenship and Immigration Services (USCIS) has submitted the following information collection request for review and clearance in accordance with the Paperwork Reduction Act of 1995. The information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for sixty days until August 24, 2009.

During this 60-day period, USCIS will be evaluating whether to revise Form I–192. Should USCIS decide to revise Form I–192 we will advise the public when we publish the 30-day notice in the **Federal Register** in accordance with the Paperwork Reduction Act. The public will then have 30 days to comment on any revisions to Form I–192.

Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the Department of Homeland Security (DHS), USCIS, Chief, Regulatory Products Division, Clearance Officer, 111 Massachusetts Avenue, NW., Washington, DC 20529–2210. Comments may also be submitted to DHS via facsimile to 202–272–8352 or via e-mail at *rfs.regs@dhs.gov*. When submitting comments by e-mail, please make sure to add OMB Control No. 1615–0017 in the subject box. Written comments and suggestions from the public and affected agencies concerning the collection of information should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Extension of an existing information collection.

(2) *Title of the Form/Collection:* Application for Advance Permission to enter as Nonimmigrant (Pursuant to 212(d)(3) of the Immigration and Nationality Act).

(3) *Agency form number, if any, and the applicable component of the Department of Homeland Security sponsoring the collection:* Form I–192; U.S. Citizenship and Immigration Services (USCIS).

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Individuals or households. The information collected will be used to determine whether the applicant meets the eligibility to enter the U.S. temporarily under the provisions of section 212(d)(3) of the Immigration and Nationality Act.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 17,000 responses at 30 minutes (.50) per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 8,500 annual burden hours.

If you need a copy of the information collection instrument, please visit the Web site at: *http://www.regulations.gov*.

We may also be contacted at: USCIS, Regulatory Products Division, 111 Massachusetts Avenue, NW., Washington, DC 20529–2210, Telephone number 202–272–8377.

Dated: June 19, 2009.

Stephen Tarragon,

Deputy Chief, Regulatory Products Division, U.S. Citizenship and Immigration Services, Department of Homeland Security.

[FR Doc. E9–14938 Filed 6–24–09; 8:45 am]

BILLING CODE 9111–97–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

Agency Information Collection Activities: Form I–129S; Extension of an Existing Information Collection; Comment Request

ACTION: 6-day notice of information collection under review; Form I–129S, Nonimmigrant Petition Based on Blanket L Petition; OMB Control No. 1615–0010.

The Department of Homeland Security, U.S. Citizenship and Immigration Services (USCIS) has submitted the following information collection request for review and clearance in accordance with the Paperwork Reduction Act of 1995. The information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for sixty days until August 24, 2009.

During this 60-day period, USCIS will be evaluating whether to revise the Form I–129S. Should USCIS decide to revise Form I–129S we will advise the public when we publish the 30-day notice in the **Federal Register** in accordance with the Paperwork Reduction Act. The public will then have 30 days to comment on any revisions to the Form I–129S.

Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the Department of Homeland Security (DHS), USCIS, Chief, Regulatory Products Division, Clearance Officer, 111 Massachusetts Avenue, NW., Washington, DC 20529–2210. Comments may also be submitted to DHS via facsimile to 202–272–8352 or via e-mail at *rfs.regs@dhs.gov.* When submitting comments by e-mail, please make sure to add OMB Control No. 1615–0010 in the subject box. Written comments and suggestions from the public and affected agencies concerning the collection of information should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Extension of an existing information collection.

(2) *Title of the Form/Collection:* Nonimmigrant Petition Based on Blanket L Petition.

(3) *Agency form number, if any, and the applicable component of the Department of Homeland Security sponsoring the collection:* Form I–129S; U.S. Citizenship and Immigration Services (USCIS).

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Individuals or households. USCIS will use the information collected to determine whether the applicant meets the eligibility for the requested immigration benefit.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 250,000 responses at 35 minutes per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 145,750 annual burden hours.

If you need a copy of the information collection instrument, please visit the Web Site at: *http://www.regulations.gov.*

We may also be contacted at: USCIS, Regulatory Products Division, 111 Massachusetts Avenue, NW., Washington, DC 20529–2210, Telephone number 202–272–8377.

Dated: June 19, 2009.

Stephen Tarragon,

Deputy Chief, Regulatory Products Division, U.S. Citizenship and Immigration Services, Department of Homeland Security.

[FR Doc. E9–14939 Filed 6–24–09; 8:45 am]

BILLING CODE 9111–97–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

Agency Information Collection Activities: Extension of an Existing Information Collection; Comment Request

ACTION: 60-day notice of information collection under review: File No. OMB 25, Special Immigrant Visas for Fourth Preference Employment-Based Broadcasters; OMB Control No. 1615–0064.

The Department of Homeland Security, U.S. Citizenship and Immigration Services (USCIS) has submitted the following information collection request for review and clearance in accordance with the Paperwork Reduction Act of 1995. The information collection is published to obtain comments from the public and affected agencies. Comments are

encouraged and will be accepted for sixty days until August 24, 2009.

During this 60 day period, USCIS will be evaluating whether to revise the File No. OMB 25. Should USCIS decide to revise File No. OMB 25 we will advise the public when we publish the 30-day notice in the **Federal Register** in accordance with the Paperwork Reduction Act. The public will then have 30 days to comment on any revisions to the File No. OMB 25.

Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the Department of Homeland Security (DHS), USCIS, Chief, Regulatory Products Division, Clearance Office, 111 Massachusetts Avenue, NW., Washington, DC 20529–2210. Comments may also be submitted to DHS via facsimile to 202–272–8352 or via e-mail at *rfs.regs@dhs.gov.* When submitting comments by e-mail, please make sure to add OMB Control Number 1615–0064 in the subject box. Written comments and suggestions from the public and affected agencies concerning the collection of information should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Extension of a currently approved information collection.

(2) *Title of the Form/Collection:* Special Immigrant Visas for Fourth Preference Employment-Based Broadcasters.

(3) *Agency form number, if any, and the applicable component of the Department of Homeland Security sponsoring the collection:* No Agency Form Number (File No. OMB–25); U.S. Citizenship and Immigration Services.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Individuals or Households. The information collected via the submitted supplemental documentation (as contained in 8 CFR 204.13(d)) will be used by the USCIS to determine eligibility for the requested classification as fourth preference employment-based immigrant broadcasters.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 100 responses at 2 hours per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 200 annual burden hours.

If you need a copy of the information collection instrument, please visit the Web site at: *http://www.regulations.gov.*

We may also be contacted at: USCIS, Regulatory Products Division, 111 Massachusetts Avenue, NW., Washington, DC 20529–2210, Telephone number 202–272–8377.

Dated: June 18, 2009.

Sunday Aigbe,

Chief, Regulatory Products Division, U.S. Citizenship and Immigration Services.

[FR Doc. E9–15002 Filed 6–24–09; 8:45 am]

BILLING CODE 9111–97–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

Agency Information Collection Activities: Form N–600; Extension of an Existing Information Collection; Comment Request

ACTION: 60-day notice of information collection under review: Form N–600, Application for Certificate of Citizenship; OMB Control Number 1615–0057.

The Department of Homeland Security, U.S. Citizenship and Immigration Services (USCIS) has submitted the following information collection request for review and clearance in accordance with the Paperwork Reduction Act of 1995. The information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for sixty days until August 24, 2009.

During this 60-day period, USCIS will be evaluating whether to revise Form N–600. Should USCIS decide to revise Form N–600 we will advise the public when we publish the 30-day notice in the **Federal Register** in accordance with the Paperwork Reduction Act. The public will then have 30 days to comment on any revisions to Form N–600.

Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the Department of Homeland Security (DHS), USCIS, Chief, Regulatory Products Division, Clearance Office, 111 Massachusetts Avenue, NW., Washington, DC 20529–2210. Comments may also be submitted to DHS via facsimile to 202–272–8352 or via e-mail at *rfs.regs@dhs.gov.* When submitting comments by e-mail, please make sure to add OMB Control Number 1615–0057 in the subject box. Written comments and suggestions from the public and affected agencies concerning the collection of information should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Extension of a currently approved information collection.

(2) *Title of the Form/Collection:* Application for Certificate of Citizenship.

(3) *Agency form number, if any, and the applicable component of the Department of Homeland Security sponsoring the collection:* Form N–600. U.S. Citizenship and Immigration Services (USCIS).

(4) *Affected public who will be asked or required to respond, as well as a brief*

abstract: Primary: Individuals or Households. USCIS uses the information on the form to make a determination that the citizenship eligibility requirements and conditions are met by the applicant.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 88,500 responses at 1 hour and 35 minutes (1.583 hours) per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 140,095 annual burden hours.

If you need a copy of the information collection instrument, please visit the Web site at: *http://www.regulations.gov*.

We may also be contacted at: USCIS, Regulatory Products Division, 111 Massachusetts Avenue, NW., Washington, DC 20529–2210, Telephone number 202–272–8377.

Dated: June 18, 2009.

Sunday Aigbe,

Chief, Regulatory Products Division, U.S. Citizenship and Immigration Services.

[FR Doc. E9–15003 Filed 6–24–09; 8:45 am]

BILLING CODE 9111–97–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Coast Guard

[Docket No. USCG–2000–7833]

Final Programmatic Environmental Impact Statement for Vessel and Facility Response Plans for Oil: 2003 Removal Equipment Requirements and Alternative Technology Revisions

AGENCY: U.S. Coast Guard, DHS.

ACTION: Notice of availability and request for comments.

SUMMARY: The Coast Guard announces the availability of the Final Programmatic Environmental Impact Statement (FPEIS) for the rulemaking entitled Vessel and Facility Response Plans for Oil: 2003 Removal Equipment Requirements and Alternative Technology Revisions (Docket No. USCG–2001–8661). The FPEIS assesses the potential environmental impacts from an increase of oil removal capability requirements for tank vessels and marine transportation-related (MTR) facilities. We request your comments on the FPEIS.

DATES: Comments and related material must either be submitted to our online docket via *http://www.regulations.gov* on or before July 27, 2009 or reach the Docket Management Facility by that date.

ADDRESSES: You may submit comments identified by Coast Guard docket number USCG–2000–7833 using any of the following methods:

(1) *Federal eRulemaking Portal: http://www.regulations.gov.*

(2) *Fax:* 202–493–2251.

(3) *Mail:* Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590–0001.

(4) *Hand delivery:* Same as mail address above, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329.

To avoid duplication, please use only one of these four methods. *See* the ''Public Participation and Request for Comments'' portion of the **SUPPLEMENTARY INFORMATION** section below for instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: If you have questions on this notice, call or e-mail Gregory Kirkbride, U.S. Coast Guard, telephone 202–372–1479, e-mail *Gregory.B.Kirkbride@uscg.mil*. If you have questions on viewing or submitting material to the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION:

Public Participation and Request for Comments

We encourage you to submit comments and related material on the FPEIS. All comments received will be posted, without change, to *http://www.regulations.gov* and will include any personal information you have provided.

Submitting comments: If you submit a comment, please include the docket number (USCG–2000–7833) for this notice and provide a reason for each suggestion or recommendation. You may submit your comments and material online, or by fax, mail, or hand delivery, but please use only one of these means. We recommend that you include your name and a mailing address, an e-mail address, or a phone number in the body of your document so that we can contact you if we have questions regarding your submission.

To submit your comment online, go to *http://www.regulations.gov*, select the Advance Docket Search option on the right side of the screen, insert ''USCG–2000–7833'' in the Docket ID box, press Enter, and then click on the balloon shape in the Actions column. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit them by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period.

Viewing the comments and the FPEIS: To view the comments and the FPEIS, go to *http://www.regulations.gov*, select the Advanced Docket Search option on the right side of the screen, insert ''USCG–2000–7833'' in the Docket ID box, press Enter, and then click on the item in the Docket ID column. If you do not have access to the Internet, you may view the docket online by visiting the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. We have an agreement with the Department of Transportation to use the Docket Management Facility.

Privacy Act: Anyone can search the electronic form of comments received into any of our dockets using the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review a Privacy Act system of records notice regarding our public dockets in the January 17, 2008, issue of the **Federal Register** (73 FR 3316).

Background and Purpose

We have prepared a Final Programmatic Environmental Impact Statement (FPEIS) for the rulemaking entitled Vessel and Facility Response Plans for Oil: 2003 Removal Equipment Requirements and Alternative Technology Revisions (1625–AA26). *See* ''*Viewing the comments and the FPEIS*'' above. The FPEIS examines the reasonable alternatives and potential environmental impacts from an increase of oil removal capability requirements for tank vessels and marine transportation-related (MTR) facilities. The FPEIS recommends Alternative 5 as the preferred alternative for increasing oil removal capability. Alternative 5 would require spill removal plan holders to maintain on-water mechanical recovery capability at current levels, establish a dispersant application capability, and establish aerial tracking capability. We are requesting your comments on environmental concerns that you may have related to the FPEIS.

The Oil Pollution Act of 1990 (OPA 90) (Pub. L. 101–380) and Executive

Order 12777 authorized the Coast Guard to issue regulations requiring owners and operators of tank vessels and MTR facilities to prepare and submit response plans, for approval, to the Coast Guard. OPA 90 also requires that owners and operators conduct their operations in accordance with those Coast Guard approved response plans.

In 1993, the Coast Guard published interim tank vessel and MTR facility response plan regulations (58 FR 7424, February 5, 1993 and 58 FR 7730 February 5, 1993, respectively). The Coast Guard finalized those regulations in 1996 (tank vessels, 61 FR 1052, January 12, 1996) (MTR facilities 61 FR 7890, February 29, 1996). These regulations contain minimum on-water oil removal equipment requirements that planholders transporting or transferring petroleum oil are required to meet when planning for an oil discharge. *See* 33 CFR part 155, subpart D for tank vessels; and 33 CFR 154, subpart F for MTR facilities. These regulations also state that the Coast Guard will periodically review oil removal equipment requirements to determine if increases in equipment and additional requirements for new response technologies are practicable. 33 CFR 154.1045(n) and 155.1050(p).

On January 27, 1998, the Coast Guard published a notice requesting comments (63 FR 3861) regarding our intent to conduct a review of response plan oil removal equipment requirements. In the notice, we stated that the 1993 removal equipment requirements would remain in effect pending the results of that review, and that the removal equipment requirement increases, as originally scheduled, would not be implemented until the review was complete. On June 24, 1998, the Coast Guard published a Notice of Meetings (63 FR 34500) that announced three public workshops. The workshops were set up to solicit comments on potential changes to removal equipment requirements within the response plan regulations (33 CFR parts 153, 154 and 155) for mechanical recovery, dispersants, and other spill removal technologies. Based on comments in response to the notice of Request for Comments and the three workshops, the Coast Guard commissioned an in-depth assessment of advances in oil-spill response equipment since 1993 (USCG–1998–3350, comments on the notice; and USCG–1998–3350–0048, –0049, and –0050, summary reports of the public workshops). The Coast Guard completed the assessment in May 1999 (USCG–1998–3350–0074). Based on the recommendations contained in the assessment, the Coast Guard published a Notice of Decision (65 FR 710, January 6, 2000) that implemented a 25 percent increase for on-water mechanical recovery equipment for response plans of MTR facilities and tank vessels, effective April 6, 2000.

In 2002, the Coast Guard published the Vessel and Facility Response Plans for Oil: 2003 Removal Requirements and Alternative Technology Revisions NPRM to evaluate the potential for additional increases in mechanical on-water recovery and new requirements for other response technologies (67 FR 63331, October 11, 2002). The NPRM described five regulatory alternatives (including a ''no action'' alternative) which emphasized mechanical and non-mechanical response assets. In addition to addressing different modes of oil-spill response, the alternatives included differing capabilities within each response mode. On November 19, 2002, we published a notice of public meeting and extension of the comment period (67 FR 69697) for the NPRM. The meeting was held on December 18, 2002, at Coast Guard Headquarters in Washington, DC, and the comment period closed on April 8, 2003.

As part of the rulemaking effort, the Coast Guard published a Notice of Intent to prepare and circulate a Draft Programmatic Environmental Impact Statement (DPEIS) (65 FR 53335, September 1, 2000). On June 1, 2005, the Coast Guard published the DPEIS (70 FR 31487) to ensure that a broad range of environmental issues were adequately considered in the rulemaking. Both documents requested input from the public on environmental concerns related to the alternatives for increasing spill removal equipment requirements for an oil discharge. The information obtained from the public, in combination with Area Committee and Regional Response Team investigations, led to our determination that mechanical recovery, in-situ burning, and chemical dispersion met the criterion to increase the response plan equipment capability requirements, which could potentially reduce the amount of spilled oil reaching sensitive marine resources.

The FPEIS describes the reasonable alternatives that were evaluated, the affected environment, and the environmental impacts associated with the alternatives on the resources analyzed. As a programmatic document, the FPEIS covers general issues in a broad, program-oriented analysis. The information contained in the FPEIS is required in order to comply with the National Environmental Policy Act.

This notice is issued under authority of 5 U.S.C. 552(a).

Dated: June 18, 2009.

J. G. Lantz,

Director of Commercial Regulations and Standards, U.S. Coast Guard.

[FR Doc. E9–14945 Filed 6–24–09; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID: FEMA–2007–0008]

National Advisory Council Meeting

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice of the National Advisory Committee Meeting.

SUMMARY: This notice announces the date, time, location, and agenda for the next meeting of the National Advisory Council (NAC). At the meeting, the subcommittees will report on their work since the April 15–16, 2009 meeting. This meeting will be open to the public.

DATES: *Meeting Dates:* Wednesday, July 29, 2009, from approximately 10 a.m. to 5:15 p.m. and Thursday, July 30, 2009, 10:15 a.m. to 2:15 p.m. A public comment period will take place on the afternoon of July 30, 2009, between approximately 1:15 p.m. and 1:45 p.m.

Comment Date: Persons wishing to make an oral presentation, or who are unable to attend or speak at the meeting, may submit written comments. Written comments or requests to make oral presentations must be received by July 20, 2009.

ADDRESSES: The meeting will be held at the Alerus Center, 1200 South 42nd Street, Grand Forks, ND 58201. Written comments and requests to make oral presentations at the meeting should be provided to the address listed in the **FOR FURTHER INFORMATION CONTACT** section and must be received by July 20, 2009. All submissions received must include the Docket ID FEMA–2007–0008 and may be submitted by any one of the following methods:

Federal Rulemaking Portal: http://www.regulations.gov. Follow the instructions for submitting comments on the Web site.

E-mail: FEMA-RULES@dhs.gov. Include Docket ID FEMA–2007–0008 in the subject line of the message.

Facsimile: (703) 483–2999.

Mail: Office of Chief Counsel, Federal Emergency Management Agency, Room 835, 500 C Street, SW., Washington, DC 20472–3100.

Hand Delivery/Courier: Office of the Chief Counsel, Federal Emergency

Management Agency, Room 835, 500 C Street, SW., Washington, DC 20472–3100.

Instructions: All submissions received must include the Docket ID FEMA–2007–0008. Comments received also will be posted without alteration at *http://www.regulations.gov,* including any personal information provided.

Docket: For access to the docket to read documents or comments received by the National Advisory Council, go to *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Alyson Price, Designated Federal Officer, Federal Emergency Management Agency, 500 C Street, SW., (Room 718), Washington, DC 20472–3100, telephone 202–646–3746, fax 202–646–4176, and e-mail *FEMA-NAC@dhs.gov.* The NAC Web site is located at: *http://www.fema.gov/about/nac/.*

SUPPLEMENTARY INFORMATION: Notice of this meeting is required under the Federal Advisory Committee Act (FACA), Public Law 92–463, as amended (5 U.S.C. App. 1 *et seq.*). The National Advisory Council (NAC) will meet for the purpose of reviewing the progress and/or potential recommendations of the following NAC subcommittees and working group: Stafford Act, National Response Framework, National Incident Management System, Post-Disaster Housing, Special Needs, Public/Private Partnerships, and Target Capabilities List. The council may receive updates on preparedness issues, mitigation issues, and the Regional Advisory Councils.

Public Attendance: The meeting is open to the public. Please note that the meeting may adjourn early if all business is finished. Persons with disabilities who require special assistance should advise the Designated Federal Officer of their anticipated special needs as early as possible. Members of the public who wish to make comments on Thursday, July 30, 2009 between 1:15 p.m. and 1:45 p.m. are requested to register in advance, and if the meeting is running ahead of schedule, the public comment period may take place at 11:30 a.m.; therefore, all speakers must be present and seated by 10:15 a.m. In order to allow as many people as possible to speak, speakers are requested to limit their remarks to 3 minutes. For those wishing to submit written comments, please follow the procedure noted above.

Dated: June 9, 2009.

W. Craig Fugate,

Administrator, Federal Emergency Management Agency.

[FR Doc. E9–14932 Filed 6–24–09; 8:45 am]

BILLING CODE 9111–48–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5311–N–03]

Notice of Availability: Notice of Funding Availability (NOFA) for American Recovery and Reinvestment Act Capital Fund Recovery Competition Grants; Correction to Deadline in June 9, 2009 Federal Register Notice

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Notice.

SUMMARY: On June 9, 2009, HUD published a notice in the **Federal Register** (74 FR 27340) to announce that a revised version of the Capital Fund Recovery Competition (CFRC) NOFA had been issued and posted to the HUD website. That brief notice stated that the deadline date for Category 4 (Creation of Energy Efficient, Green Communities) applications is July 29, 2009. In fact, the correct deadline date for Category 4 applications is July 21, 2009. The July 21, 2009 deadline date for Category 4 applications is correctly stated in the revised CFRC NOFA posted on HUD's Web site on June 3, 2009. While the requirements for submitting an application for this assistance are those provided in the CFRC NOFA, HUD is using today's **Federal Register** notice to avoid any confusion in its applicant community.

FOR FURTHER INFORMATION CONTACT: If you have a question or need a clarification, you may contact the Office of Capital Improvements by sending an email message to *PIHOCI@hud.gov*. Please see *http://www.hud.gov/offices/pih/programs/ph/capfund/ocir.cfm*, which can be accessed from *http://www.hud.gov/recovery/*, for the revised CFRC NOFA and additional information.

Dated: June 19, 2009.

Aaron Santa Anna,

Assistant General Counsel for Regulations.

[FR Doc. E9–14910 Filed 6–24–09; 8:45 am]

BILLING CODE 5210–67–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

Failure to Demonstrate Valid Existing Rights for Land Within the Daniel Boone National Forest

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Notice of decision.

SUMMARY: This notice announces our decision on a request for a determination of valid existing rights (VER) under section 522(e) of the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act). We (OSM) have determined that, based upon the information provided, the applicant has not demonstrated the existence of VER on the Jack Smith, *et al.* property within the boundaries of the Daniel Boone National Forest in Clay County, Kentucky.

DATES: *Effective Date:* June 25, 2009.

FOR FURTHER INFORMATION CONTACT: Joseph L. Blackburn, Director, Lexington Field Office, 2675 Regency Road, Lexington, Kentucky 40503.

- *Telephone:* (859) 260–3903. *Fax:* (859) 260–8410.
- *E-mail: jblackburn@osmre.gov.*

SUPPLEMENTARY INFORMATION:

I. What Is the Nature of the VER Determination Request?

On July 15, 2008, David Altizer submitted a request on behalf of Jack Smith, Jerry Smith and Leovie Smith, for a determination of VER to conduct surface coal mining operations on approximately 238 acres of land owned by the U.S. Forest Service within the Daniel Boone National Forest in Clay County, Kentucky.

II. What Legal Requirements Apply to This Request?

Section 522(e)(2) of SMCRA, 30 U.S.C. 1272(e)(2), prohibits surface coal mining operations on Federal lands within the boundaries of any national forest, with two exceptions. The first exception pertains to surface operations and impacts incidental to an underground coal mine. The second

relates to surface operations on lands within national forests west of the 100th meridian. Neither of those exceptions applies to the request now under consideration.

The introductory paragraph of section 522(e) also provides two general exceptions to the prohibitions on surface coal mining operations in that section. Those exceptions apply to operations in existence on the date of enactment of the Act (August 3, 1977) and to land for which a person has VER. SMCRA does not define VER. We subsequently adopted regulations defining VER and clarifying that, for lands that come under the protection of 30 CFR 761.11 and section 522(e) after the date of enactment of SMCRA, the applicable date is the date that the lands came under protection, not August 3, 1977.

On December 17, 1999 (64 FR 70766–70838), we adopted a revised definition of VER, established a process for submission and review of requests for VER determinations, and otherwise modified the regulations implementing section 522(e). At 30 CFR 761.16(a), we published a table clarifying which agency (OSM or the State regulatory authority) is responsible for making VER determinations and which definition (State or Federal) will apply. That table specifies that OSM is responsible for VER determinations for Federal lands within national forests and that the Federal VER definition in 30 CFR 761.5 applies to those determinations.

At 30 CFR 761.16(b) we published the information needed for OSM to make a determination of VER, which includes information required to demonstrate the ''good faith/all permits'' standard in accordance with 30 CFR 761.16(b)(2) or the ''needed for and adjacent'' standard in accordance with 761.16(b)(3).

III. What Information Is Available Relevant to the Basis for the Request?

The request included a Property Rights Demonstration, as required by 30 CFR 761.16 (b)(1) pursuant to the definition at 30 CFR 761.5. Included were two deed conveyances referenced in the Property Rights Demonstration, containing a legal description of the land owned by the petitioner that is the subject of the request, and the subsequent severance of the surface and mineral estates.

IV. How We Processed the Request

We received the request on July 18, 2008, through a letter dated July 15, 2008, submitted by David Altizer on behalf of Jack Smith *et al.* The request did not include all of the information required for the ''good faith/all permits'' standard in accordance with 30 CFR 761.16(b)(2) or the ''needed for and adjacent'' standard in accordance with 30 CFR 761.16(b)(3). Therefore, we determined that the request was not administratively complete. Because the request was not administratively complete, our review did not include an assessment of the technical or legal adequacy of the materials submitted with the request.

In a letter dated August 13, 2008, we informed the requester that the information submitted was incomplete. As required by 30 CFR 761.16(c)(2), we provided an additional 30 days within which to submit the required information. No additional information was submitted by the requester.

V. How We Made Our Decision

Because we did not receive any further information in support of the request, and we did not receive a request for an extension of time within which to submit additional information, the request remains incomplete and cannot be processed. In such a situation, our regulations at 30 CFR 761.16(e)(4) require us to issue a determination that an applicant has not demonstrated VER. This determination is made without prejudice therefore the requester may submit a revised request with the appropriate information at any time.

VI. How Can I Appeal the Determination?

Our determination that the applicant has not demonstrated VER is subject to administrative and judicial review under the Federal regulations at 30 CFR 775.11 and 775.13.

VII. Where Are the Records of This Determination Available?

Our records on this determination are available for your inspection at the Lexington Field Office at the location listed under **FOR FURTHER INFORMATION CONTACT**.

Dated: April 23, 2009.

Thomas D. Shope,

Regional Director, Appalachian Region.

[FR Doc. E9–15000 Filed 6–24–09; 8:45 am]

BILLING CODE 4310–05–P

DEPARTMENT OF THE INTERIOR

National Park Service

Temporary Vehicle Restriction on U. S. Route 209

AGENCY: National Park Service, Delaware Water Gap, National Recreation Area.

ACTION: Temporary Vehicle Restriction on U.S. Route 209.

SUMMARY: The National Park Service (NPS), Delaware Water Gap National Recreation Area, in conjunction with the Federal Highway Administration, is repairing and reconstructing the Bushkill Creek Bridge along U.S. Route 209. During the repair and reconstruction period, Bushkill Creek Bridge will be closed. A detour route is available, but can only accommodate vehicles with a gross vehicle weight rating (GVWR) less than 15 tons. For this reason, NPS is instituting a temporary restriction of vehicles with a GVWR in excess of 15 tons (30,000 lbs GVWR) along U.S. Route 209 in the park. This temporary restriction will be in effect starting July 9, 2009 at 1800 hours and will remain in effect 24 hours a day until July 27, 2009 at 1800 hours.

DATES: July 9, 2009 at 1800 through July 27, 2009 at 1800.

ADDRESSES: Requests for copies of, and written comments on U.S. Route 209 closure should be sent to John J. Donahue, Superintendent, Delaware Water Gap, National Recreation Area, River Road, Bushkill, PA 18324.

FOR FURTHER INFORMATION CONTACT: John J. Donahue at (570) 426–2418.

SUPPLEMENTARY INFORMATION: The main problems to be corrected on the Bushkill Creek Bridge are moderate spalling throughout the north pier bearing area on both sides, which has partially undermined several bearing plates. Other problems being corrected are deterioration of the wearing surface, paint deterioration throughout the steel beams, and rusting of the bearing devices. Additionally, repairs are being made to several large vertical cracks in the abutment breastwalls, and large quantities of gravel and debris in the channel at the structure site. In the fall of 2008, Delaware Water Gap National Recreation Area maintenance employees performed and completed the gravel removal operation. In order to repair the wearing surface, milling and removal of 2″ of the bridge deck is required and needs to be replaced with new latex concrete. The process for milling, removal, and pouring of new latex concrete is 4 days with an additional 14 days for the curing of the new latex concrete, thus requiring the closure of the bridge for 18 consecutive days. During this time, vehicles with a GVWR less than 15 tons may use the identified detour route. Vehicles with a GVWR greater than 15 tons will not be able to use U.S. Route 209 in the park.

Public Availability of Comments: John J. Donahue, Superintendent, Delaware

Water Gap, National Recreation Area, River Road, Bushkill, PA 18324.

Dated: May 5, 2009.

John J. Donahue,

Superintendent, Delaware Water Gap, National Recreation Area.

[FR Doc. E9–15021 Filed 6–24–09; 8:45 am]

BILLING CODE 4312–J6–P

INTERNATIONAL TRADE COMMISSION

[Inv. No. 337–TA–565]

In the Matter of Certain Ink Cartridges and Components Thereof Consolidated Enforcement Proceeding and Enforcement Proceeding II; Notice of a Commission Determination Not To Review an Enforcement Initial Determination Finding a Violation of Cease and Desist Orders and a Consent Order; Schedule for Filing Written Submissions on Civil Penalties

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined not to review an enforcement initial determination (''EID'') of the presiding administrative law judge (''ALJ'') in the above-captioned proceeding finding a violation of cease and desist orders and a consent order. The Commission is requesting briefing on the amount of civil penalties for violation of the orders.

FOR FURTHER INFORMATION CONTACT: Michael Haldenstein, Office of the General Counsel, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone (202) 205–3041. Copies of all nonconfidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone 202–205–2000. General information concerning the Commission may also be obtained by accessing its Internet server (*http://www.usitc.gov*). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov/.* Hearing-impaired persons are advised that information on the matter can be obtained by contacting the Commission's TDD terminal on 202–205–1810.

SUPPLEMENTARY INFORMATION: The Commission instituted the underlying investigation in this matter on March 23, 2006, based on a complaint filed by Epson Portland, Inc. of Oregon; Epson America, Inc. of California; and Seiko Epson Corporation of Japan (collectively, ''Epson''). 71 FR 14720 (March 23, 2006). The complaint, as amended, alleged violations of section 337 of the Tariff Act of 1930 (''section 337'') in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain ink cartridges and components thereof by reason of infringement of claim 7 of U.S. Patent No. 5,615,957; claims 18, 81, 93, 149, 164, and 165 of U.S. Patent No. 5,622,439; claims 83 and 84 of U.S. Patent No. 5,158,377; claims 19 and 20 of U.S. Patent No. 5,221,148; claims 29, 31, 34, and 38 of U.S. Patent No. 5,156,472; claim 1 of U.S. Patent No. 5,488,401; claims 1–3 and 9 of U.S. Patent No. 6,502,917; claims 1, 31, and 34 of U.S. Patent No. 6,550,902; claims 1, 10, and 14 of U.S. Patent No. 6,955,422; claim 1 of U.S. Patent No. 7,008,053; and claims 21, 45, 53, and 54 of U.S. Patent No. 7,011,397. The complaint further alleged that an industry in the United States exists as required by subsection (a)(2) of section 337. The complainants requested that the Commission issue a general exclusion order and cease and desist orders. The Commission named as respondents 24 companies located in China, Germany, Hong Kong, Korea, and the United States. Several respondents were terminated from the investigation on the basis of settlement agreements or consent orders or were found in default.

On October 19, 2007, after review of the ALJ's final ID, the Commission made its final determination in the investigation, finding a violation of section 337. The Commission issued a general exclusion order, a limited exclusion order, and cease and desist orders directed to several domestic respondents. The Commission also determined that the public interest factors enumerated in 19 U.S.C. 1337(d), (f), and (g) did not preclude issuance of the aforementioned remedial orders, and that the bond during the Presidential period of review would be $13.60 per cartridge for covered ink cartridges. Certain respondents appealed the Commission's final determination to the United States Court of Appeals for the Federal Circuit (''Federal Circuit''). On January 13, 2009, the Federal Circuit affirmed the Commission's final determination without opinion pursuant to Fed. Cir. R. 36. *Ninestar Technology Co. et al.* v. *International Trade Commission,* Appeal No. 2008–1201.

On February 8, 2008, Epson filed two complaints for enforcement of the Commission's orders pursuant to Commission rule 210.75. Epson proposed that the Commission name five respondents as enforcement respondents. On May 1, 2008, the Commission determined that the criteria for institution of enforcement proceedings were satisfied and instituted consolidated enforcement proceedings, naming the five following proposed respondents as enforcement respondents: Ninestar Technology Co., Ltd.; Ninestar Technology Company, Ltd.; Town Sky Inc. (collectively, the ''Ninestar Respondents''), as well as Mipo America Ltd. (''Mipo America'') and Mipo International, Ltd (collectively, the ''Mipo Respondents''). On March 18, 2008, Epson filed a third enforcement complaint against two proposed respondents: Ribbon Tree USA, Inc. (dba Cana-Pacific Ribbons) and Apex Distributing Inc. (collectively, the ''Apex Respondents''). On June 23, 2008, the Commission determined that the criteria for institution of enforcement proceedings were satisfied and instituted another formal enforcement proceeding and named the two proposed respondents as the enforcement respondents. On September 18, 2008, the ALJ issued Order No. 37, consolidating the two proceedings.

On April 17, 2009, the ALJ issued his Enforcement Initial Determination (EID) in which he determined that there have been violations of the Commission's cease and desist orders and a consent order and recommended that the Commission impose civil penalties for such violations.

On April 29, 2009, the Ninestar Respondents filed a petition for review of the EID. On May 7, 2009, Epson and the Commission investigative attorney filed responses to the petition for review.

Having considered the EID, the petition for review, the responses thereto, and other relevant portions of the record, the Commission has determined not to review the EID. The Commission may levy civil penalties for violation of the cease and desist orders and consent order.

Written Submissions: Parties to the investigation, interested government agencies, and any other interested parties are encouraged to file written submissions on the amount of civil penalties to be imposed. Such submissions should address the April 17, 2009, recommended determination by the ALJ on civil penalties. The

written submissions must be filed no later than close of business on July 3, 2009. Reply submissions must be filed no later than the close of business on July 13, 2009. No further submissions on these issues will be permitted unless otherwise ordered by the Commission.

Persons filing written submissions must file the original document and 12 true copies thereof on or before the deadlines stated above with the Office of the Secretary. Any person desiring to submit a document (or portion thereof) to the Commission in confidence must request confidential treatment unless the information has already been granted such treatment during the proceedings. All such requests should be directed to the Secretary of the Commission and must include a full statement of the reasons why the Commission should grant such treatment. See section 201.6 of the Commission's Rules of Practice and Procedure, 19 CFR 201.6. Documents for which confidential treatment by the Commission is sought will be treated accordingly. All nonconfidential written submissions will be available for public inspection at the Office of the Secretary.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and sections 210.16 and 210.75 of the Commission's Rules of Practice and Procedure (19 CFR 210.16 and 210.75).

By order of the Commission.

Issued: June 19, 2009.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. E9–14941 Filed 6–24–09; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. TA–421–7]

Certain Passenger Vehicle and Light Truck Tires From the People's Republic of China; Determination

On the basis of information developed in the subject investigation, the United States International Trade Commission (Commission) determines, pursuant to section 421(b)(1) of the Trade Act of 1974,[1] that certain passenger vehicle and light truck tires [2] from the People's Republic of China are being imported into the United States in such increased quantities or under such conditions as to cause or threaten to cause market disruption to the domestic producers of like or directly competitive products.[3]

Background

The Commission instituted this investigation following receipt, on April 20, 2009, of a petition filed by the United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union. Notice of the institution of the Commission's investigation and of the scheduling of a public hearing to be held in connection therewith was given by posting a copy of the notice on the Commission's Web site (*http://www.usitc.gov*) and by publishing the notice in the **Federal Register** of April 29, 2009 (74 FR 19593). The hearing was held on June 2, 2009 in Washington, DC; all persons who requested the opportunity were permitted to appear in person or by counsel.

By order of the Commission.

Issued: June 19, 2009.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. E9–14943 Filed 6–24–09; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–667 and Investigation No. 337–TA–673]

In the Matter of Certain Electronic Devices, Including Handheld Wireless Communications Devices; Notice of Commission Determination Not To Review an Initial Determination Granting Motion To Amend the Notice of Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined not to review the presiding administrative law judge's (''ALJ'') initial determination (''ID'') (Order No. 14C) in consolidated Inv. Nos. 337–TA–667 and 337–TA–673, *Certain Electronic Devices Including Handheld Wireless Communications Devices,* granting a motion to amend the notice of investigation.

FOR FURTHER INFORMATION CONTACT: Megan M. Valentine, Office of the General Counsel, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone (202) 708–2301. Copies of non-confidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone (202) 205–2000. General information concerning the Commission may also be obtained by accessing its Internet server at *http://www.usitc.gov.* The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.* Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

SUPPLEMENTARY INFORMATION: The Commission instituted Inv. No. 337–TA–667 (''the 667 Investigation'') on January 23, 2009, based on a complaint filed by Saxon Innovation, LLC of Tyler, Texas (''Saxon''). 74 FR 4231. The complaint, as amended and supplemented, alleges violations of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain electronic devices, including handheld wireless communications devices, by reason of infringement of certain claims of U.S. Patent Nos. 5,235,635 (''the '635 patent''); 5,530,597 (''the '597 patent''); and 5,608,873 (''the '873 patent''). The complaint further alleges the existence of a domestic industry related to each patent. The Commission's notice of investigation named various respondents, including High Tech Computer Corp. of Taoyuan, Taiwan and HTC America, Inc. of Bellevue, Washington (collectively ''HTC''). On April 28, 2009, the Commission determined not to review an ID granting under Commission Rule 210.21(b) a joint motion filed by Saxon and HTC to terminate the investigation as to respondent HTC.

The Commission instituted Inv. No. 337–TA–673 (''the 673 Investigation'') on March 31, 2009, based on a complaint filed by Saxon. 74 FR 14578–9. The complaint, as amended and supplemented, alleges violations of

[1] 19 U.S.C. 2451(b)(1).

[2] For purposes of this investigation, certain passenger vehicle and light truck tires are defined as new pneumatic tires, of rubber, from China, of a kind used on motor cars (except racing cars) and on-the-highway light trucks, vans, and sport utility vehicles, provided for in subheadings 4011.10.10, 4011.10.50, 4011.20.10, and 4011.20.50 of the Harmonized Tariff Schedule of the United States (''HTS''). The HTS subheadings are provided for convenience and customs purposes; the written description of the product under investigation is dispositive.

[3] Vice Chairman Daniel R. Pearson and Commissioner Deanna Tanner Okun made a negative determination.

section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain electronic devices, including handheld wireless communications devices, by reason of infringement of certain claims of the '635 patent, the '597 patent, and the '873 patent. The complaint further alleges the existence of a domestic industry related to each patent. The Commission's notice of investigation named as respondents Samsung Electronics Co., Ltd. of Seoul, Korea; Samsung Electronics America, Inc. of Ridgefield Park, New Jersey; and Samsung Telecommunications America, LLP of Richardson, Texas (collectively ''Samsung'').

On May 12, 2009, Samsung moved to amend the Notice of Investigation in the 673 investigation to remove the reference to claims 9 and 22 of the '873 patent, arguing that these two claims were not asserted in the complaint and were inadvertently referenced in the Notice of Investigation. No party contested Samsung's assertion. On May 28, 2009, the ALJ issued the subject ID, granting Samsung's motion pursuant to Commission Rule 210.14(b). No petitions for review were filed.

The Commission has determined not to review the ID.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in section 210.42 of the Commission's Rules of Practice and Procedure (19 CFR 210.42).

By order of the Commission.

Issued: June 19, 2009.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. E9–14942 Filed 6–24–09; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

[OMB Number 1105–0085]

Executive Office for United States Trustees; Agency Information Collection Activities: Collection; Comments Requested

ACTION: 30-Day Notice of Application Under Review: Application for Approval as a Provider of a Personal Financial Management Instructional Course.

The Department of Justice, Executive Office for United States Trustees, will be submitting the following application to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995. The application is published to obtain comments from the public and affected agencies. This application was previously published in the **Federal Register**, Volume 74, Number 77, page 18594 on April 23, 2009, allowing for a 60-day comment period.

The purpose of this notice is to allow for an additional 30 days for public comment until July 27, 2009. This process is conducted in accordance with 5 CFR 1320.10.

Written comments and 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 application are encouraged. Your comments should address one or more of the following four points:

1. Evaluate whether the application is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

2. Evaluate the accuracy of the agency's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used;

3. Enhance the quality, utility, and clarity of the information to be collected; and

4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of the Information

Type of information collection	Application form.
The title of the form/collection	Application for Approval as a Provider of a Personal Financial Management Instructional Course.
The agency form number, if any, and the applicable component of the department sponsoring the collection.	No form number.
	Executive Office for United States Trustees, Department of Justice.
Affected public who will be asked or required to respond, as well as a brief abstract.	Primary: Individuals who wish to offer instructional courses to student debtors concerning personal financial management.
	Other: None.
	Congress passed a bankruptcy law that requires individuals who file for bankruptcy to complete an approved personal financial management instructional course as a condition of receiving a discharge.
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 300 respondents will complete the application in approximately ten (10) hours.
An estimate of the total public burden (in hours) associated with the collection.	The estimated total annual public burden associated with this application is 3,000 hours.

If additional information is required, contact: Lynn Bryant, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Patrick Henry Building, 601 D Street, NW., Suite 1600, Washington, DC 20530.

Dated: June 22, 2009.

Lynn Bryant,

Department Clearance Officer, PRA, United States Department of Justice.

[FR Doc. E9–15013 Filed 6–24–09; 8:45 am]

BILLING CODE 4410–40–P

DEPARTMENT OF JUSTICE

[OMB Number 1105–0084]

Executive Office for United States Trustees; Agency Information Collection Activities: Collection; Comments Requested

ACTION: 30-Day notice of application under review: Application for Approval as a Nonprofit Budget and Credit Counseling Agency.

The Department of Justice, Executive Office for United States Trustees, will be submitting the following application to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995. The application is published to obtain comments from the public and affected agencies. This application was previously published in the **Federal Register**, Volume 74, Number 77, page 18594 on April 23, 2009, allowing for a 60-day comment period.

The purpose of this notice is to allow for an additional 30 days for public comment until July 27, 2009. This process is conducted in accordance with 5 CFR 1320.10.

Written comments and 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 application are encouraged. Your comments should address one or more of the following four points:

1. Evaluate whether the application is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

2. Evaluate the accuracy of the agency's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used;

3. Enhance the quality, utility, and clarity of the information to be collected; and

4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of the Information

Type of information collection	Application form.
The title of the form/collection	Application for Approval as a Nonprofit Budget and Credit Counseling Agency.
The agency form number, if any, and the applicable component of the department sponsoring the collection.	No form number.
Affected public who will be asked or required to respond, as well as a brief abstract.	Executive Office for United States Trustees, Department of Justice. Primary: Agencies who wish to offer credit counseling services. Other: None. Congress passed a bankruptcy law that requires any individual who wishes to file for bankruptcy to, within 180 days of filing for bankruptcy relief, first obtain credit counseling from a nonprofit budget and credit counseling agency that has been approved by the United States Trustee.
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 300 respondents will complete the application in approximately ten (10) hours.
An estimate of the total public burden (in hours) associated with the collection.	The estimated total annual public burden associated with this application is 3,000 hours.

If additional information is required, contact: Lynn Bryant, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Patrick Henry Building, 601 D Street, NW., Suite 1600, Washington, DC 20530.

Dated: June 22, 2009.

Lynn Bryant,

Department Clearance Officer, PRA, Department of Justice.

[FR Doc. E9–15015 Filed 6–24–09; 8:45 am]

BILLING CODE 4410–40–P

DEPARTMENT OF JUSTICE

Federal Bureau of Investigation

[OMB Number 1110–0039]

Agency Information Collection Activities: Proposed Collection, Comments Requested

ACTION: 30-Day notice of information collection under review: extension of a currently approved collection; Bioterrorism Preparedness Act: Entity/Individual Information.

The Department of Justice, Federal Bureau of Investigation, Criminal Justice Information Services Division will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with established review procedures of 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 74, number 76, pages 18405–18406 on April 22, 2009, allowing for a 60-day comment period.

The purpose of this notice is to allow for an additional 30 days for public comment until July 27, 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 John E. Strovers, CJIS Division Intelligence Group, Federal Bureau of Investigation, Criminal Justice Information Services Division (CJIS), Module E–3, 1000 Custer Hollow Road, Clarksburg, West Virginia 26306; facsimile (304) 625–5393.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Comments should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques of other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of information collection:* Extension of current collection.

(2) *The title of the form/collection:* Federal Bureau of Investigation Bioterrorism Preparedness Act: Entity/Individual Information.

(3) *The agency form number, if any, and the applicable component of the department sponsoring the collection:* Form FD–961; Criminal Justice Information Services Division, Federal Bureau of Investigation, Department of Justice.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* City, county, State, Federal, individuals, business or other for profit, and not-for-profit institute. This collection is needed to receive names and other identifying information submitted by individuals requesting access to specific agents or toxins, and consult with appropriate officials of the Department of Health and Human Services and the Department of Agriculture as to whether certain individuals specified in the provisions should be denied access to or granted limited access to specific agents.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* There are approximately 4,784 (FY 2008) respondents at 45 minutes for FD–961 Form.

(6) *An estimate of the total public burden (in hours) associated with this collection:* There are approximately 3,588 hours, annual burden, associated with this information collection.

If additional information is required contact: Ms. Lynn Bryant, Department Clearance Officer, Policy and Planning Staff, Justice Management Division, United States Department of Justice, Patrick Henry Building, Suite 1600, 601 D Street, NW., Washington, DC 20530.

Dated: June 22, 2009.

Ms. Lynn Bryant,

Department Clearance Officer, PRA, United States Department of Justice.

[FR Doc. E9–15010 Filed 6–24–09; 8:45 am]

BILLING CODE 4410–02–P

DEPARTMENT OF JUSTICE

Federal Bureau of Investigation

[OMB Number 1110–0026]

Criminal Justice Information Services Division; National Instant Criminal Background Check System Section; Agency Information Collection Activities: Existing Collection, Comments Requested

ACTION: 60-Day Notice of Information Collection Under Review: Approval of an existing collection; Federal Firearms Licensee (FFL) Enrollment/National Instant Criminal Background Check System (NICS) Electronic Check (E–Check) Enrollment Form; Federal Firearms Licensee (FFL) Officer/Employee Acknowledgment of Responsibilities Under the National Instant Criminal Background Check System (NICS) Form.

The Department of Justice (DOJ), Federal Bureau of Investigation (FBI), Criminal Justice Information Services (CJIS) Division, National Instant Criminal Background Check System (NICS) Section 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. Comments are encouraged and will be accepted for 60 days until August 24, 2009. This process is conducted in accordance with Title 5 Code of Federal Regulations (CFR), Section 1320.10.

If you have comments, especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Natalie N. Snider, Management and Program Analyst, Federal Bureau of Investigation, Criminal Justice Information Services (CJIS) Division, NICS Section, Module A–3, 1000 Custer Hollow Road, Clarksburg, West Virginia 26306, or facsimile at (304) 625–7540.

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:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency/component, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's/component's estimate of the burden of the proposed collection of the information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of this Information

(1) *Type of Information Collection:* Approval of an Existing Collection.

(2) *Title of the Form:*

Federal Firearms Licensee (FFL) Enrollment/National Instant Criminal Background Check System (NICS) Electronic Check (E–Check) Enrollment Form. Federal Firearms Licensee (FFL) Officer/Employee Acknowledgment of Responsibilities Under the National Instant Criminal Background Check System (NICS) Form.

(3) *Agency Form Number, if any, and the applicable component of the department sponsoring the collection:*

Form Number: 1110–0026.

Sponsor: Criminal Justice Information Services (CJIS) Division of the Federal Bureau of Investigation (FBI), Department of Justice (DOJ).

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:*

Primary: Any Federal Firearms Licensee (FFL) or State Point-of-Contact (POC) requesting access to conduct National Instant Criminal Background Check System (NICS) Checks telephonically or by the Internet through the NICS Electronic Check (E–Check).

Brief Abstract: The Brady Handgun Violence Prevention Act of 1993 required the United States Attorney General to establish a national instant criminal background check system that any Federal Firearms Licensee (FFL) may contact, by telephone or by other electronic means, for information to be supplied immediately, on whether receipt of a firearm by a prospective purchaser would violate state or federal law. Information pertaining to licensees who may contact the NICS is being collected to manage and control access to the NICS and to the NICS E–Check, to ensure appropriate resources are available to support the NICS, and also to ensure the privacy and security of NICS information.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:*

It is estimated that 500 Federal Firearms Licensees (FFLs) enroll with the NICS per month for a total of 6,000 enrollments per year. The average response time for reading the directions for the National Instant Criminal Background Check System (NICS) Federal Firearms Licensee (FFL) Enrollment/NICS Electronic Check (E–Check) Enrollment Form is estimated to be two minutes; time to complete the form is estimated to be three minutes; and the time it takes to assemble, mail, or fax the form to the FBI is estimated to be three minutes, for a total of eight minutes. The average hour burden for this specific form is 6,000 × 8 minutes/60 = 800 hours.

The Federal Firearms Licensee (FFL) Officer/Employee Acknowledgment of Responsibilities Form Under the National Instant Criminal Background Check System (NICS) takes approximately three minutes to read the responsibilities and two minutes to complete the form, for a total of five minutes. The average hour burden for this specific form is 6,000 × 5 minutes/60 = 500 hours.

The accompanying letter mailed with the packet takes an additional two minutes to read which would be 6,000 × 2 minutes/60 = 200 hours.

The entire process of reading the letter and completing both forms would take 15 minutes per respondent. The average hour burden for completing both forms and reading the accompanying letter would be 6,000 × 15/60 = 1,500 hours.

(6) *An estimate of the total public burden (in hours) associated with the collection:*

The entire process of reading the letter and completing both forms would take 15 minutes per respondent. The average hour burden for completing both forms and reading the accompanying letter would be 6,000 × 15/60 = 1,500 hours.

If additional information is required, contact: Ms. Lynn Bryant, Department Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, Suite 1600, Patrick Henry Building, 601 D Street, NW., Washington, DC 20530.

Dated: June 18, 2009.

Lynn Bryant,

Department Clearance Officer, PRA, United States Department of Justice.

[FR Doc. E9–15011 Filed 6–24–09; 8:45 am]

BILLING CODE 4410–02–P

DEPARTMENT OF JUSTICE

Office of Justice Programs

[OMB Number 1121–0115]

Office for Victims of Crime; Agency Information Collection Activities: Proposed Collection; Comments Requested

ACTION: 30-Day Notice of Information Collection Under Review: Extension of a currently approved collection; Victims of Crime Act, Crime Victim Assistance Grant Program Performance Report.

The Department of Justice (DOJ), Office of Justice Programs (OJP), Office for Victims of Crime (OVC) 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 74, Number 77, pages 18595–18596 on April 23, 2009, allowing for a 60-day comment period.

The purpose of this notice is to allow for an additional 30 days for public comment until July 27, 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 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 Collection

(1) *Type of Information Collection:* Extension of a currently approved collection.

(2) *Title of the Form/Collection:* Victims of Crime Act, Crime Victim Assistance Grant Program, Performance Report.

(3) *Agency form number, if any, and the applicable component of the Department sponsoring the collection:* The form number is 1121–0115. Office for Victims of Crime, Office of Justice Programs, U.S. Department of Justice is sponsoring the collection.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* State government. *Other:* None. The VOCA, Crime Victim Assistance Grant Program, State Performance Report is a required annual submission by state grantees to report to the Office for Victims of Crime (OVC) on the uses and effects VOCA victim assistance grant funds have had on services to crime victims in the State, to

certify compliance with the eligibility requirement of VOCA, and to provide a summary of supported activities carried out within the State during the grant period. This information will be aggregated and serve as supporting documentation for the Director's biennial report to the President and to the Congress on the effectiveness of the activities supported by these grants.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond/reply:* The information to compile these reports will be drawn from victim assistance program data to the 57 respondents (grantees). The number of victim assistance programs varies widely from state to state. A state could be responsible for compiling subgrant data for as many as 391 programs (Ohio) to as few as 12 programs (District of Columbia). Therefore, the estimated clerical hours can range from 1 to 70 hours.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The current estimated burden is 1,197 (20) hours per respondent (estimate median) + 1 hour per respondent for recordkeeping × 57 respondents = 1,197). There is no increase in the annual recordkeeping and reporting burden.

If additional information is required, contact: 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: June 22, 2009.

Lynn Bryant,

Department Clearance Officer, PRA, U.S. Department of Justice.

[FR Doc. E9–15009 Filed 6–24–09; 8:45 am]

BILLING CODE 4410–18–P

DEPARTMENT OF JUSTICE

Bureau of Alcohol, Tobacco, Firearms and Explosives

[OMB Number 1140–NEW]

Agency Information Collection Activities: Proposed Collection; Comments Requested

ACTION: 30–Day Notice of Information Collection Under Review: Supplemental Information on Water Quality Consideration.

The Department of Justice (DOJ), Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) 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 74, Number 76, pages 18404–18405 on April 22, 2009, allowing for a 60-day comment period.

The purpose of this notice is to allow for an additional 30 days for public comment until July 27, 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 Collection

(1) *Type of Information Collection:* New.

(2) *Title of the Form/Collection:* Supplemental Information on Water Quality Considerations.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form Number: ATF F 5000.30. Bureau of Alcohol, Tobacco, Firearms and Explosives.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Individuals or households. Other: None. Abstract: The data supplied by the applicant is used by ATF to determine if any environmental impact statement or environmental permit is necessary for the proposed operation.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* There will be an estimated 680 respondents who will complete a 30-minute form.

(6) *An estimate of the total burden (in hours) associated with the collection:* There are an estimated 340 total burden hours associated with this collection.

If additional information is required contact: Lynn Bryant, Department Clearance Officer, United States Department of Justice, Policy and Planning Staff, Justice Management Division, Suite 1600, Patrick Henry Building, 601 D Street, NW., Washington, DC 20530.

Dated: June 22, 2009.

Lynn Bryant,

Department Clearance Officer, PRA, United States Department of Justice.

[FR Doc. E9–15019 Filed 6–24–09; 8:45 am]

BILLING CODE 4410–FY–P

DEPARTMENT OF JUSTICE

Bureau of Alcohol, Tobacco, Firearms and Explosives

[OMB Number 1140—NEW]

Agency Information Collection Activities: Proposed Collection; Comments Requested

ACTION: 30-Day Notice of Information Collection Under Review: Environmental Information.

The Department of Justice (DOJ), Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) 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 74, Number 76, page 18405 on April 22, 2009, allowing for a 60-day comment period.

The purpose of this notice is to allow for an additional 30 days for public comment until July 27, 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 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 Collection

(1) *Type of Information Collection:* New.

(2) *Title of the Form/Collection:* Environmental Information.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection: Form Number:* ATF F 5000.29. Bureau of Alcohol, Tobacco, Firearms and Explosives.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Individuals or households. *Other:* None. *Abstract:* The data supplied by the applicant is used by ATF to determine if any environmental impact statement or environmental permit is necessary for the proposed operation.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* There will be an estimated 680 respondents who will complete a 30-minute form.

(6) *An estimate of the total burden (in hours) associated with the collection:* There are an estimated 340 total burden hours associated with this collection.

If additional information is required contact: Lynn Bryant, Department Clearance Officer, United States Department of Justice, Policy and Planning Staff, Justice Management Division, Suite 1600, Patrick Henry Building, 601 D Street, NW., Washington, DC 20530.

Dated: June 22, 2009.

Lynn Bryant,

Department Clearance Officer, PRA, United States Department of Justice.

[FR Doc. E9–15016 Filed 6–24–09; 8:45 am]

BILLING CODE 4410–FY–P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—iRobot Corporation

Notice is hereby given that, on May 15, 2009, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), iRobot Corporation (''iRobot'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties to the venture and (2) the nature and objectives of the venture. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances.

Pursuant to Section 6(b) of the Act, the identities of the parties to the venture are: iRobot, Bedford, MA; Georgia Tech Research Corporation, Atlanta, GA; Lockheed Martin Advanced Technologies Laboratories, Cherry Hill, NJ; the Massachusetts Institute of Technology, Cambridge, MA; Sarnoff Corporation, Princeton, NJ; The Board of Trustees of the Leland Stanford Junior University, Stanford, CA; and The Regents of the University of New Mexico, Albuquerque, NM. The general area of iRobot's planned activity is to engage in cooperative research and development in the area of robotic perception, intelligence, human-robot interaction, and dexterous manipulation and unique mobility.

Patricia A. Brink,

Deputy Director of Operations, Antitrust Division.

[FR Doc. E9–14983 Filed 6–24–09; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Portland Cement Association

Notice is hereby given that on May 18, 2009, pursuant to Section 6(a) of the National Cooperative Research and Production At of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Portland Cement Association (''PCA'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, the following members have withdrawn from this venture: Donaldson Company, Inc., Minneapolis, MN; Illinois Cement Company, LaSalle, IL; Solios Environment Corp., Montreal, Quebec, Canada; and Vizer PlC, Suisun City, CA.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open and PCA intends to file additional written notification disclosing all changes in membership.

On January 7, 1985, PCA filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on February 5, 1985 (50 FR 5015).

The last notification was filed with the Department on February 24, 2009. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on April 3, 2009 (74 FR 15003).

Patricia A. Brink,

Deputy Director of Operations, Antitrust Division.

[FR Doc. E9–14984 Filed 6–24–09; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF LABOR

Employment and Training Administration

Notice of a Change in Status of an Extended Benefit (EB) Period for Kentucky

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice.

SUMMARY: This notice announces a change in benefit period eligibility under the EB program for Kentucky.

The following change has occurred since the publication of the last notice regarding Kentucky's EB status:

• Kentucky has modified its law by adding a total unemployment rate (TUR) trigger retroactive to February 1, 2009. As a result, Kentucky has retroactively triggered ''on'' to an extended benefit period for weeks of unemployment beginning February 22, 2009, and ''on'' to a high unemployment period (HUP) for weeks of unemployment beginning April 12, 2009. Eligible unemployed workers will be able to collect up to an additional 20 weeks of unemployment insurance benefits.

Information for Claimants

The duration of benefits payable in the EB program, and the terms and conditions on which they are payable, are governed by the Federal-State Extended Unemployment Compensation Act of 1970, as amended, and the operating instructions issued to the states by the U.S. Department of Labor. In the case of a state beginning an HUP, the State Workforce Agency will furnish a written notice of potential entitlement to each individual who has exhausted all rights to regular benefits and is potentially eligible for EB (20 CFR 615.13(c)(1)). Persons who believe they may be entitled to EB or who wish to inquire about their rights under the program should contact their State Workforce Agency.

FOR FURTHER INFORMATION CONTACT: Scott Gibbons, U.S. Department of Labor, Employment and Training Administration, Office of Workforce Security, 200 Constitution Avenue, NW., Frances Perkins Bldg. Room S–4231, Washington, DC 20210, telephone number (202) 693–3008 (this is not a toll-free number) or by e-mail: *gibbons.scott@dol.gov*.

Signed in Washington, DC, this 19th day of June 2009.

Douglas F. Small,

Deputy Assistant Secretary, Employment and Training Administration.

[FR Doc. E9–14974 Filed 6–24–09; 8:45 am]

BILLING CODE 4510–FW–P

DEPARTMENT OF LABOR

Employment and Training Administration

Notice of a Change in Status of an Extended Benefit (EB) Period for Nevada

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice.

SUMMARY: This notice announces a change in benefit period eligibility under the EB program for Nevada.

The following change has occurred since the publication of the last notice regarding Nevada's EB status:

• Nevada has modified its law by adding a total unemployment rate (TUR) trigger retroactive to February 1, 2009. As a result, Nevada has retroactively triggered ''on'' to a high unemployment period (HUP) for weeks of unemployment beginning February 22, 2009, and eligible unemployed workers will be able to collect up to an additional 20 weeks of unemployment insurance benefits.

Information for Claimants

The duration of benefits payable in the EB program, and the terms and conditions on which they are payable, are governed by the Federal-State Extended Unemployment Compensation Act of 1970, as amended, and the operating instructions issued to the states by the U.S. Department of Labor. In the case of a state beginning an HUP, the State Workforce Agency will furnish a written notice of potential entitlement to each individual who has exhausted all rights to regular benefits and is potentially eligible for EB (20 CFR 615.13(c)(1)). Persons who believe they may be entitled to EB or who wish to inquire about their rights under the program should contact their State Workforce Agency.

FOR FURTHER INFORMATION CONTACT: Scott Gibbons, U.S. Department of Labor, Employment and Training Administration, Office of Workforce Security, 200 Constitution Avenue, NW., Frances Perkins Bldg. Room S–4231, Washington, DC 20210, telephone number (202) 693–3008 (this is not a toll-free number) or by *e-mail: gibbons.scott@dol.gov*.

Signed in Washington, DC, this 19th day of June 2009.

Douglas F. Small,

Deputy Assistant Secretary, Employment and Training Administration.

[FR Doc. E9–14973 Filed 6–24–09; 8:45 am]

BILLING CODE 4510–FW–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 *June 8 through June 12, 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 of 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–65,319; Tidland Corporation, Division of Maxcess International, Camas, WA: February 18, 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.

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) and Section 246(a)(3)(A)(ii) 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) 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.

None.

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–65,557; Metaldyne, A Wholly Owned Subsidiary of ASAHI TEC Corporation, Twinsburg, OH.

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

None.

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.

None.

I hereby certify that the aforementioned determinations were issued during the period of *June 8 through June 12, 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: June 19, 2009.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E9–14969 Filed 6–24–09; 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 *April 6 through April 10, 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 of 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.

TA–W–65,273; Sherico Cedar Products, Forks, WA: February 2, 2008.

The following certifications have been issued. The requirements of section 222(a)(2)(B) (shift in production) of the Trade Act have been met.

TA–W–65,613; Whitehall Mfg, Whitehall East Div., a/k/a Thermo-Electric, Imperial, PA: March 16, 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) 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–65,387; Croscill Acquisition, LLC, Durham, NC: April 6, 2009.

TA–W–65,334; PGP Corporation, DBA Voss Industries, Taylor, MI: February 20, 2008.

TA–W–65,440; Fibermark, North America, Sears Way Division/FKA Permalin Mfg., West Springfield, MA: February 27, 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–65,341; Eljer, Inc., Dicker Staffing, Dallas, TX: February 19, 2008.

TA–W–65,420; Millet Industries, Bushnell Outdoor Products, Huntington Beach, CA: February 25, 2008.

TA–W–65,507; Arcelor Mittal Marion, Inc., Tubular Products, Marion, OH: March 4, 2008.

TA–W–65,373; Qimonda North America Corporation, Cary, NC: February 23, 2008.

TA–W–65,355; Normark Innovations, Inc., dba Luhr Jensen Custom Fishing Lures, Bingen, WA: April 6, 2009.

TA–W–65,430; Niles America Wintech, Inc., Winchester, KY: February 26, 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–65,045A; Parkdale America, LLC—Plant #40, Parkdale Mills, Inc., Plant #40, Graniteville, SC: March 22, 2009.

TA–W–65,045; Parkdale America, LLC—Plant #10, Servesource and Defender Services, Gastonia, NC: January 26, 2008.

TA–W–65,209; Spartan Light Metal Products, Sparta, IL: February 9, 2008.

TA–W–65,221; A1 Polishing: Finishing, Inc., New Holstein, WI: February 10, 2008.

TA–W–65,413; Topy America, Inc., Steel Wheel Division, Frankfort, KY: February 25, 2008.

TA–W–65,657; Prescotech Industries, Inc., Fort Smith, AR: March 20, 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.

TA–W–65,273; Sherico Cedar Products, Forks, WA.

TA–W–65,613; Whitehall Mfg, Whitehall East Div., a/k/a Thermo-Electric, Imperial, PA.

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–64,927; Anheuser-Busch Inc., St. Louis, MO.

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–64,622; Napco, Inc., Div. of Ply Gem Siding Group, Valencia, PA.

TA–W–65,052; General Motors Corporation, Truck Division, Wentzville Assembly Center, Wentzville, MO.

TA–W–65,123; Key Tronic Corp., Spokane Valley, WA.

TA–W–65,349; Columbia Forest Products, Inc., Newport, VT.

TA–W–65,433; American Racing Equipment, LLC, Denver, CO.

TA–W–65,450; Akzo Nobel Coatings, Inc., High Point, NC.

TA–W–65,454; Mid Columbia Lumber Products, LLC, Madras, OR.

TA–W–65,530; Zosel Lumber Company, Oroville, WA.

TA–W–64,184; Protient, Inc., Norfolk, NE.

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

None.

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.

None.

I hereby certify that the aforementioned determinations were issued during the period of *April 6, through April 10, 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: June 19, 2009.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E9–14970 Filed 6–24–09; 8:45 am]

BILLING CODE 4510–FN–P

NATIONAL FOUNDATION FOR THE ARTS AND THE HUMANITIES

National Endowment for the Arts; Submission for OMB Review; Comment Request

June 10, 2009.

The National Endowment for the Arts (NEA) has submitted the following public information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 [Pub. L. 104–13, 44 U.S.C. Chapter 35]. Copies of this

ICR, with applicable supporting documentation, may be obtained by calling the National Endowment for the Arts' Director, Civil Rights Office, Angelia Richardson, at 202/682–5454. Individuals who use a telecommunications device for the deaf (TTY/TDD) may call 202/682–5496 between 10 a.m. and 4 p.m. Eastern time, Monday through Friday.

Comments should be sent to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for the National Endowment for the Arts, Office of Management and Budget, Room 10235, Washington, DC 20503, 202/395–7316, within 30 days from the date of this publication in the **Federal Register**.

The Office of Management and Budget is particularly interested in comments which:

Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used;

Enhance the quality, utility, and clarity of the information to be collected; and

Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques, or other forms of information technology, *e.g.,* permitting electronic submissions of responses.

SUPPLEMENTARY INFORMATION:

Agency: National Endowment for the Arts.

Title: Section 504 Self-Evaluation Workbook.

Frequency: Annually.

Affected Public: Nonprofit organizations, state and local arts agencies.

Estimated Number of Respondents: 2,200.

Total Burden Hours: 8,800.

Total Annualized Capital/Start Up Costs: 0.

Total Annual Costs (Operating/Maintaining systems or Purchasing Services): 0.

The National Endowment for the Arts enriches our nation and its diverse cultural heritage by supporting works of artistic excellence, advancing learning in the arts, and strengthening the arts in communities throughout the country.

The Section 504 Self-Evaluation Workbook is required of all National Endowment for the Arts' recipients of Federal financial assistance. The Workbook is designed to assist recipients to evaluate the current state of accessibility of their programs, activities, policies and practices to determine areas of noncompliance. The collection of this information is necessary to comply with the administrative requirements of Section 504 of the Rehabilitation Act of 1973, as amended. The self-evaluation is specifically addressed in CFR Title 45, Subpart D, subsection 1151.42.

The Section 504 Self-Evaluation Workbook, for which clearance is requested, is used by recipients of Federal financial assistance to collect information to determine the effects of its programs, activities, policies and practices that do not or may not meet the requirements of the Rehabilitation Act. Upon completion of the self evaluation, the information collected is used by recipients to modify or take remedial steps to eliminate the effects of discrimination that may impact the programs, activities, policies and practices that receive Federal financial assistance.

The collection of this information must be kept on file for a period of three years and made available to the public and the National Endowment for the Arts upon request.

Kathleen Edwards,

Support Services Supervisor, National Endowment for the Arts.

[FR Doc. E9–14971 Filed 6–24–09; 8:45 am]

BILLING CODE 7536–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. NRC–2009–0109]

Agency Information Collection Activities: Submission for the Office of Management and Budget (OMB) Review; Comment Request

AGENCY: U.S. Nuclear Regulatory Commission (NRC).

ACTION: Notice of the OMB review of information collection and solicitation of public comment.

SUMMARY: The NRC has recently submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35). The NRC hereby informs potential respondents that an agency may not conduct or sponsor, and that a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The NRC published a **Federal Register** Notice with a 60-day comment period on this information collection on March 19, 2009.

1. *Type of submission, new, revision, or extension:* Extension.

2. *The title of the information collection:* NRC Form 590, ''Application/Permit for Use of the Two White Flint (TWFN) Auditorium.''

3. *Current OMB approval number:* 3150–0181.

4. *The form number if applicable:* NRC Form 590.

5. *How often the collection is required:* Occasionally. Each time public use of the auditorium is requested.

6. *Who will be required or asked to report:* Members of the public requesting use of the NRC Auditorium.

7. *An estimate of the number of annual responses:* 5.

8. *The estimated number of annual respondents:* 5.

9. *An estimate of the total number of hours needed annually to complete the requirement or request:* 1.25 hours (5 requests × 15 minutes per request).

10. *Abstract:* In accordance with the Public Buildings Act of 1959, an agreement was reached between the Maryland-National Capital Park and Planning Commission (MPPC), the General Services Administration (GSA), and the Nuclear Regulatory Commission that the NRC auditorium will be made available for public use. Public users of the auditorium will be required to complete NRC Form 590, Application/Permit for Use of Two White Flint North (TWFN) Auditorium. The information is needed to allow for administrative and security review and scheduling, and to make a determination that there are no anticipated problems with the requester prior to utilization of the facility.

A copy of the final supporting statement may be viewed free of charge at the NRC Public Document Room, One White Flint North, 11555 Rockville Pike, Room O–1 F21, Rockville, MD 20852. OMB clearance requests are available at the NRC worldwide Web site: *http://www.nrc.gov/public-involve/doc-comment/omb/index.html.* The document will be available on the NRC home page site for 60 days after the signature date of this notice.

Comments and questions should be directed to the OMB reviewer listed below by July 27, 2009. Comments received after this date will be considered if it is practical to do so, but assurance of consideration cannot be given to comments received after this date.

Christine J. Kymn, Office of Information and Regulatory Affairs

(3150–0181), NEOB–10202, Office of Management and Budget, Washington, DC 20503.

Comments can also be e-mailed to *Christine_J._Kymn@omb.eop.gov* or submitted by telephone at (202) 395–4638.

The acting NRC Clearance Officer is Tremaine Donnell, (301) 415–6258.

Dated at Rockville, Maryland, this 16th day of June 2009.

For the Nuclear Regulatory Commission.

Tremaine Donnell,

Acting NRC Clearance Officer, Office of Information Services.

[FR Doc. E9–14982 Filed 6–24–09; 8:45 am]

BILLING CODE 7590–01–P

OFFICE OF PERSONNEL MANAGEMENT

[OMB Control No. 3206–0197; Forms RI 38–107 and RI 38–147]

Submission for OMB Review; Request for Review of a Revised Information Collection

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, May 22, 1995), this notice announces that the Office of Personnel Management (OPM) has submitted to the Office of Management and Budget (OMB) a request for review of a revised information collection. ''Verification of Who is Getting Payments'' (OMB Control No. 3206–0197; Form RI 38–107) is designed for use by the Retirement Inspection Branch when OPM, for any reason, must verify that the entitled person is indeed receiving the monies payable. ''Verification of Who is Getting Payments'' (OMB Control No. 3206–0197; Form RI 38–147) collects the same information and is used by other groups within Retirement Services Program. Failure to collect this information would cause OPM to pay monies absent the assurance of a correct payee.

The number of respondents to RI 38–107 is 25,000. The number of respondents to RI 38–147 is 400. We estimate it takes approximately 10 minutes to complete each form. The annual burden for RI 38–107 is 4,167 hours; the annual burden for RI 38–147 is 67 hours. The total burden is 4,234 hours.

For copies of this proposal, contact Cyrus S. Benson on (202) 606–4808, FAX (202) 606–0910 or via E-mail to *Cyrus.Benson@opm.gov.* Please include a mailing address with your request.

DATES: Comments on this proposal should be received within 30 calendar days from the date of this publication.

ADDRESSES: Send or deliver comments to—

James K. Freiert, Deputy Assistant Director, Retirement Services Program, Center for Retirement and Insurance Services, U.S. Office of Personnel Management, 1900 E Street, NW., Room 3305, Washington, DC 20415–3500; and

OPM Desk Officer, Office of Information & Regulatory Affairs, Office of Management and Budget, New Executive Office Building, 725 17th Street, NW., Room 10235, Washington, DC 20503.

FOR INFORMATION REGARDING ADMINISTRATIVE COORDINATION CONTACT: Cyrus S. Benson, Team Leader, Publications Team, RIS Support Services/Support Group, U.S. Office of Personnel Management, 1900 E Street, NW., Room 4H28, Washington, DC 20415, (202) 606–0623.

U.S. Office of Personnel Management.

John Berry,

Director.

[FR Doc. E9–15020 Filed 6–24–09; 8:45 am]

BILLING CODE 6325–38–P

POSTAL REGULATORY COMMISSION

[Docket No. CP2009–38; Order No. 223]

Priority Mail Contract

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a recently-filed Postal Service request to add an additional Priority Mail contract to the Competitive Product List. This notice addresses procedural steps associated with this filing.

DATES: Postal Service responses are due June 23, 2009. Comments are due June 26, 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:

I. Background

On June 11, 2009, the Postal Service filed a notice, pursuant to 39 U.S.C. 3632(b)(3) and 39 CFR 3015.5, announcing that it has entered into an additional contract (Priority Mail Contract 12), which it contends fits within the previously proposed Priority Mail Contract Group product.[1] In support, the Postal Service filed the proposed contract and referenced Governors' Decision 09–6 filed in Docket No. MC2009–25. *Id.* at 1.

The Notice states that the ''contract differs from the contract filed as Priority Mail Contract 6 only in regards to negotiated prices and a difference in termination provisions.'' *Id.* at 2. In addition, it states that the contract is scheduled to become effective the day that the Commission issues all necessary regulatory approval. *Id.* at 1.

The instant contract. The Postal Service filed the instant contract pursuant to 39 U.S.C. 3632(b)(3) and 39 CFR 3015.5. It submitted the contract and supporting material under seal, and attached a redacted copy of the contract and certified statement required by 39 CFR 3015.5(c)(2) to the Notice. *Id.,* Attachments A and B respectively.

The Postal Service maintains that the contract and related financial information, including the customer's name and the accompanying analyses that provide prices, terms, conditions, and financial projections should remain under seal. *Id.* at 2.

II. Notice of Filing

The Commission establishes Docket No. CP2009–38 for consideration of the matters related to the contract identified in the Postal Service's Notice.

The Notice does not expressly use the term functionally equivalent to describe proposed Priority Mail Contract 12. Instead, it appears to implicitly make that claim by distinguishing the instant contract from Priority Mail Contract 6, filed in Docket No. CP2009–30 as part of the proposed Priority Mail Contract Group. *Id.* at 2. As the Postal Service recognizes, the scope of the Priority Mail Contract Group product is currently pending before the Commission. To that end, it acknowledges that the Commission's decision in Docket No. MC2009–25 may have an impact on the sufficiency of the Postal Service's filings in this case. *Id.* at 1, n.1. Depending on the outcome of Docket No. MC2009–25, the Postal Service may need to file additional support as required in 39 CFR 3020 subpart B. Such filings, if any, shall be due within three days of the Commission's order in Docket No. MC2009–25 addressing the scope of the proposed Priority Mail Contract Group product.

[1] Notice of Establishment of Rates and Class Not of General Applicability (Priority Mail Contract 12), June 11, 2009 (Notice).

Interested persons may submit comments on whether the instant contract is consistent with the policies of 39 U.S.C. 3632, 3633, or 3642 and 39 CFR part 3015 and 39 CFR 3020, subpart B, and whether it should be classified within the Priority Mail Contract Group or as a separate product. Comments in this case are due no later than June 26, 2009.

The public portions of these filings can be accessed via the Commission's Web site (*http://www.prc.gov*).

The Commission appoints Paul L. Harrington to serve as Public Representative in this docket.

III. Supplementary Information

Pursuant to 39 CFR 3015.6, the Commission requests the Postal Service to provide the following supplemental information by June 23, 2009:

1. (a) Please explain the cost adjustments made to each contract;

(b) Explain the mailer activities or characteristics that:

(i) Yield cost savings to the Postal Service,

(ii) Impose additional costs on the Postal Service;

(c) Please address every instance where an NSA partner's cost differs from the average cost.

2. (a) Please provide a timeframe of when NSA partner volumes and cubic feet measurements were collected for each contract.

(b) Please provide a unit of analysis for volumes in each contract, *e.g.,* whole numbers, thousands, etc.

3. In the Excel files accompanying the instant contract, unit transportation costs are hard coded (*See* tab: ''Partner Unit Cost'' rows 18 and 19). Please provide up-to-date sources and show all calculations.

IV. Ordering Paragraphs

It is Ordered:

1. The Commission establishes Docket No. CP2009–38 for consideration of the issues raised in this docket.

2. As discussed in this order, the Postal Service shall file supplemental information, if necessary, within three days of the Commission's order in Docket No. MC2009–25 addressing the scope of the proposed Priority Mail Contract Group product.

3. Comments by interested persons in these proceedings are due no later than June 26, 2009.

4. The Postal Service is to provide the information requested in section III of this order no later than June 23, 2009.

5. Pursuant to 39 U.S.C. 505, Paul L. Harrington is appointed to serve as officer of the Commission (Public Representative) to represent the interests of the general public in these proceedings.

6. The Secretary shall arrange for publication of this order in the **Federal Register.**

By the Commission.

Steven W. Williams,

Secretary.

[FR Doc. E9–14926 Filed 6–24–09; 8:45 am]

BILLING CODE 7710–FW–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–60152]

Order Granting Application for Extension of a Temporary Conditional Exemption Pursuant to Section 36(a) of the Exchange Act by the International Securities Exchange, LLC Relating to the Ownership Interest of International Securities Exchange Holdings, Inc. in an Electronic Communications Network

June 19, 2009.

I. Introduction

On December 22, 2008, the Securities and Exchange Commission (''Commission'') approved a proposal filed by the International Securities Exchange, LLC (''ISE'' or ''Exchange'') in connection with corporate transactions (the ''Transactions'') in which, among other things, the parent company of ISE, International Securities Exchange Holdings, Inc. (''ISE Holdings''), purchased a 31.54% ownership interest in Direct Edge Holdings LLC (''Direct Edge''), the owner and operator of Direct Edge ECN (''DECN''), a registered broker-dealer and electronic communications network (''ECN'').[1] Following the closing of the Transactions (the ''Closing''), Direct Edge's wholly-owned subsidiary, Maple Merger Sub LLC (''Merger Sub'') began to operate a marketplace for the trading of U.S. cash equity securities by Equity Electronic Access Members of ISE (the ''Facility''), under ISE's rules and as a ''facility,'' as defined in Section 3(a)(2) of the Securities Exchange Act of 1934 (''Exchange Act''),[2] of ISE.[3]

DECN, which operates as an ECN and submits its limit orders to the Facility for display and execution, is an affiliate of ISE through ISE Holdings' equity interest in DE Holdings. DECN also is a facility, as defined in Section 3(a)(2) of the Exchange Act, of ISE because it is an affiliate of ISE used for the purpose of effecting and reporting securities transactions. Because DECN is a facility of ISE, ISE, absent exemptive relief, would be obligated under Section 19(b) of the Exchange Act to file with the Commission proposed rules governing the operation of DECN's systems and subscriber fees.

On December 22, 2008, the Commission exercised its authority under Section 36 of the Exchange Act to grant ISE a temporary exemption, subject to certain conditions, from the requirements under Section 19(b) of the Exchange Act with respect to DECN's proposed rules.[4]

On June 15, 2009, ISE filed with the Commission, pursuant to Rule 0–12[5] under the Exchange Act, an application under Section 36(a)(1) of the Exchange Act[6] to extend the relief granted in the Exemption Order for an additional 180 days, subject to certain conditions.[7] This order grants ISE's request for a temporary extension of the relief provided in the Exemption Order, subject to the satisfaction of certain conditions, which are outlined below.

II. Application for an Extension of the Temporary Conditional Exemption From the Section 19(b) Rule Filing Requirements

On June 15, 2009, ISE requested that the Commission exercise its authority under Section 36 of the Exchange Act to temporarily extend, subject to certain conditions, the temporary conditional exemption granted in the Exemption Order from the rule filing procedures of Section 19(b) of the Exchange Act in connection with ISE Holdings' equity ownership interest in DE Holdings and the continued operation of DECN as a facility of ISE.[8]

The Exemption Request notes that on May 7, 2009, EDGA Exchange, Inc., and EDGX Exchange, Inc. (together, the

[1] *See* Securities Exchange Act Release No. 59135 (December 22, 2008), 73 FR 79954 (December 30, 2008) (order approving File No. SR–ISE–2008–85).

[2] 15 U.S.C. 78c(a)(2).

[3] Under Section 3(a)(2) of the Act, the term ''facility,'' when used with respect to an exchange, includes ''its premises, tangible or intangible property whether on the premises or not, any right to the use of such premises or property or any service thereof for the purpose of effecting or reporting a transaction on an exchange (including, among other things, any system of communication to or from the exchange, by ticker or otherwise, maintained by or with the consent of the exchange), and any right of the exchange to the use of any property or service.''

[4] *See* Securities Exchange Act Release No. 59133 (December 22, 2008), 73 FR 79940 (December 30, 2008) (''Exemption Order'').

[5] 17 CFR 240.0–12.

[6] 15 U.S.C. 78mm(a)(1).

[7] *See* letter from Michael J. Simon, General Counsel and Secretary, ISE, to Elizabeth M. Murphy, Secretary, Commission, dated June 15, 2009 (''Exemption Request'').

[8] *See* Section 3(a)(2) of the Exchange Act, 15 U.S.C. 78c3(a)(2) (definition of ''facility'').

''Exchange Subsidiaries''), two wholly-owned subsidiaries of DE Holdings, filed with the Commission Form 1 applications (the ''Form 1 Applications'') to register as national securities exchanges under Section 6 of the Exchange Act.[9] According to the Exemption Request, DECN intends to file a ''Cessation of Operations Report'' with the Commission and to cease operations as an ECN shortly following any Commission approval of the Form 1 Applications and the Exchange Subsidiaries commencing operations as national securities exchanges.[10]

Because DECN will cease operations as an ECN if the Commission approves the Form 1 Applications, ISE expects that DECN will continue to operate as a facility of ISE for a relatively brief period.[11] In addition, ISE believes that it would be unduly burdensome and inefficient to require DECN's operating rules to be separately subject to the Section 19(b) rule filing process because DECN is only operating temporarily as a facility of ISE while the Commission considers the Form 1 Applications.[12] ISE notes, further, that the Commission is reviewing the rules governing the operation of the Exchange Subsidiaries as part of its review of the Form 1 Applications.[13]

ISE has asked the Commission to exercise its authority under Section 36 of the Exchange Act to grant ISE a 180-day extension of the Exemption Order's relief, subject to certain conditions, from the Section 19(b) rule filing requirements that otherwise would apply to DECN as a facility of ISE.[14] The extended temporary conditional exemption would commence immediately and would permit the continued operation of DECN while the Commission considers the Form 1 Applications that, if approved, would allow the Exchange Subsidiaries to operate in place of DECN.[15] ISE believes that the extended temporary conditional exemption will help to ensure an orderly transition from DECN to the proposed Exchange Subsidiaries.[16]

ISE states, in addition, that the extended exemption will not diminish the Commission's ability to monitor ISE and DECN.[17] In this regard, ISE notes that to the extent that ISE makes changes to its systems, including the Facility, during the extended temporary exemption period, or thereafter, it remains subject to Section 19(b) and thus obligated to file proposed rule changes with the Commission.[18] Further, in the Exemption Request, ISE commits to satisfying certain conditions, as outlined below, which are identical to the conditions in the Exemption Order.[19] For example, as a condition to the extended temporary exemption, ISE will be required to submit proposed rule changes with respect to any material changes to DECN's functions during the exemption period.[20] ISE notes, however, that neither ISE nor DECN anticipates any material changes to DECN's functionality during the extended temporary exemption period.[21]

III. Order Granting Extension of Temporary Conditional Section 36 Exemption

In 1996, Congress gave the Commission greater flexibility to regulate trading systems, such as DECN, by granting the Commission broad authority to exempt any person from any of the provisions of the Exchange Act and to impose appropriate conditions on their operation.[22] Specifically, NSMIA added Section 36(a)(1) to the Exchange Act, which provides that ''the Commission, by rule, regulation, or order, may conditionally or unconditionally exempt any person, security, or transaction, or any class or classes of persons, securities, or transactions, from any provision or provisions of [the Exchange Act] or of any rule or regulation thereunder, to the extent that such exemption is necessary or appropriate in the public interest, and is consistent with the protection of investors.'' [23] In enacting Section 36, Congress indicated that it expected that ''the Commission will use this authority to promote efficiency, competition and capital formation.'' [24] It particularly intended to give the Commission sufficient flexibility to respond to changing market and competitive conditions:

> The Committee recognizes that the rapidly changing marketplace dictates that effective regulation requires a certain amount of flexibility. Accordingly, the bill grants the SEC general exemptive authority under both the Securities Act and the Securities Exchange Act. This exemptive authority will allow the Commission the flexibility to explore and adopt new approaches to registration and disclosure. It will also enable the Commission to address issues relating to the securities markets more generally. For example, the SEC could deal with the regulatory concerns raised by the recent proliferation of electronic trading systems, which do not fit neatly into the existing regulatory framework.[25]

As noted above, in December 2008 the Commission exercised its Section 36 exemptive authority to grant ISE a temporary exemption, subject to certain conditions, from the 19(b) rule filing requirements in connection with the Transaction.[26] In 2004, the Commission granted similar exemptive relief in connection with the acquisition by The Nasdaq Stock Market, Inc. (''Nasdaq'') of Brut, LLC, the operator of the Brut ECN.[27]

Section 19(b)(1) of the Exchange Act requires a self-regulatory organization (''self-regulatory organization'' or ''SRO''), including ISE, to file with the Commission its proposed rule changes accompanied by a concise general statement of the basis and purpose of the proposed rule change. Once a proposed rule change has been filed with the Commission, the Commission is required to publish notice of it and provide an opportunity for public comment. The proposed rule change may not take effect unless approved by the Commission by order, unless the rule change is within the class of rule changes that are effective upon filing pursuant to Section 19(b)(3)(A) of the Act.[28]

Section 19(b)(1) of the Exchange Act defines the term ''proposed rule change'' to mean ''any proposed rule or rule change in, addition to, or deletion from the rules of [a] self-regulatory organization.'' Pursuant to Section 3(a)(27) and 3(a)(28) of the Exchange Act, the term ''rules of a self-regulatory organization'' means (1) the constitution, articles of incorporation, bylaws and rules, or instruments corresponding to the foregoing, of an SRO, and (2) such stated policies,

[9] *See* Exemption Request at 2.

[10] *Id.*

[11] *Id.*

[12] *Id.*

[13] *Id.*

[14] *Id.*

[15] According to ISE, it would be impracticable for DECN to display its limit orders other than on the Facility. *See* Exemption Request at 3.

[16] *See* Exemption Request at 2.

[17] *Id.*

[18] *See* Exemption Request at 2–3.

[19] The ISE also represents that it has complied with the conditions in the Exemption Order and that it will continue to comply with these conditions during any extension of the relief granted in the Exemption Order. *See* Exemption Request at 3.

[20] *See* Exemption Request at note 5.

[21] *See* Exemption Request at note 4.

[22] 15 U.S.C. 78mm(a). Section 36 of the Exchange Act was enacted as part of the National Securities Markets Improvements Act 1996, Pub. L. No. 104–290 (''NSMIA'').

[23] 15 U.S.C. 78mm(a)(1).

[24] H.R. Rep. No. 104–622, 104th Cong., 2d Sess. 38 (1996).

[25] S. Rep. No. 104–293, 104th Cong., 2d Sess. 15 (1996).

[26] *See* Exemption Order, *supra* note 4.

[27] *See* Securities Exchange Act Release No. 50311 (September 3, 2004), 69 FR 54818 (September 10, 2004).

[28] 15 U.S.C. 78s(b)(3)(A).

practices and interpretations of an SRO (other than the Municipal Securities Rulemaking Board) as the Commission, by rule, may determine to be necessary or appropriate in the public interest or for the protection of investors to be deemed to be rules. Rule 19b–4(b) under the Exchange Act,[29] defines the term ''stated policy, practice, or interpretation'' to mean generally ''any material aspect of the operation of the facilities of the self-regulatory organization or any statement made available to the membership, participants, or specified persons thereof that establishes or changes any standard, limit, or guideline with respect to rights and obligations of specified persons or the meaning, administration, or enforcement of an existing rule.''

The term ''facility'' is defined in Section 3(a)(2) of the Exchange Act, with respect to an exchange, to include ''its premises, tangible or intangible property whether on the premises or not, any right to use such premises or property or any service thereof for the purpose of effecting or reporting a transaction on an exchange (including, among other things, any system of communication to or from the exchange, by ticker or otherwise, maintained by or with the consent of the exchange), and any right of the exchange to the use of any property or service.''

In its Exemption Request, ISE acknowledges that since the Closing, Merger Sub has operated the Facility as a facility of ISE.[30] Absent an exemption, Section 19(b) of the Exchange Act and Rule 19b–4 thereunder would require ISE to file proposed rules with the Commission to allow ISE to operate DECN as a facility of ISE.

In its Exemption Request, ISE notes that the Exchange Subsidiaries have filed Form 1 Applications and that DECN intends to cease operations as an ECN shortly after any Commission approval of the Form 1 Applications and the Exchange Subsidiaries' commencement of operations as national securities exchanges.[31] Accordingly, ISE expects that DECN will continue to operate as a facility of ISE for a relatively brief period of time.[32] ISE notes, in addition, that the Commission is reviewing the rules governing the operation of the Exchange Subsidiaries as part of its review of the Form 1 Applications.[33] ISE represents that it has complied with the conditions in the Exemption Order and that it will continue to comply with these conditions during an extension of the relief granted in the Exemption Order.[34]

The Commission believes that it is appropriate to grant a temporary extension of the relief provided in the Exemption Order, subject to the conditions described below, to allow DECN to continue to operate as a facility of ISE without being subject to the rule filing requirements of Section 19(b) of the Exchange Act for a temporary period.[35] Accordingly, the Commission has determined to grant ISE's request for an extension of the relief provided in the Exemption Order, subject to certain conditions, for a period not to exceed 180 days. The Commission finds that the temporary extended conditional exemption from the provisions of Section 19(b) of the Exchange Act is appropriate in the public interest and is consistent with the protection of investors. In particular, the Commission believes that the temporary extended exemption should help promote efficiency and competition in the market by allowing DECN to continue to operate as an ECN for a limited period of time while the Commission considers the Form 1 Applications. In this regard, the Commission notes ISE's belief that it would be unduly burdensome and inefficient to require DECN's operating rules to be separately subjected to the Section 19(b) rule filing and approval process because DECN will operate only temporarily as a facility of ISE while the Commission considers the Form 1 Applications.[36] To provide the Commission with the opportunity to review and act upon any proposal to change DECN's fees or to make material changes to DECN's operations as an ECN during the period covered by the extended temporary exemption, as well as to ensure that the Commission's ability to monitor ISE and DECN is not diminished by the extended temporary exemption, the Commission is imposing the following conditions while the extended temporary exemption is in effect.[37] The Commission believes such conditions are necessary and appropriate in the public interest for the protection of investors. Therefore, the Commission is granting to ISE an extended temporary exemption, pursuant to Section 36 of the Exchange Act, from the rule filing requirements imposed by Section 19(b) of the Exchange Act as set forth above, provided that ISE and DECN comply with the following conditions:

(1) DECN remains a registered broker-dealer under Section 15 of the Exchange Act[38] and continues to operate as an ECN;

(2) DECN operates in compliance with the obligations set forth under Regulation ATS;

(3) DECN and ISE continue to operate as separate legal entities;

(4) ISE files a proposed rule change under Section 19 of the Exchange Act[39] if any material changes are sought to be made to DECN's operations. A material change would include any changes to a stated policy, practice, or interpretation regarding the operation of DECN or any other event or action relating to DECN that would require the filing of a proposed rule change by an SRO or an SRO facility;[40]

(5) ISE files a proposed rule change under Section 19 of the Exchange Act if DECN's fee schedule is sought to be modified; and

(6) ISE treats DECN the same as other ECNs that participate in the Facility, and, in particular, ISE does not accord DECN preferential treatment in how DECN submits orders to the Facility or in the way its orders are displayed or executed.[41]

In addition, the Commission notes that the Financial Industry Regulatory Authority is currently the Designated Examining Authority for DECN.

For the reasons discussed above, the Commission finds that the extended temporary conditional exemptive relief requested by ISE is appropriate in the public interest and is consistent with the protection of investors.

It is ordered, pursuant to Section 36 of the Exchange Act,[42] that the application for an extended temporary conditional exemption is granted for a

[29] 17 CFR 240.19b–4(b).

[30] *See* Exemption Request at 1. As discussed above, ISE owns a 31.54% ownership interest in DE Holdings, the sole owner of Merger Sub.

[31] *See* Exemption Request at 2.

[32] *Id.*

[33] *Id.*

[34] *See* Exemption Request at 2.

[35] In granting this relief, the Commission makes no finding regarding whether ISE's operation of DECN as a facility would be consistent with the Exchange Act.

[36] In addition, the Commission notes that the rules governing the operation of the Exchange Subsidiaries will be subjected to public comment and Commission review and approval as part of the exchange registration process.

[37] *See* Exemption Request at note 5.

[38] 15 U.S.C. 78*o.*

[39] 15 U.S.C. 78s.

[40] *See* Section 19(b) of the Exchange Act and Rule 19b–4 thereunder. The Commission notes that a material change would include, among other things, changes to DECN's operating platform; the types of securities traded on DECN; DECN's types of subscribers; or the reporting venue for trading that takes place on DECN. The Commission also notes that any rule filings must set forth the operation of the DECN facility sufficiently so that the Commission and the public are able to evaluate the proposed changes.

[41] *See* Exemption Request at note 5.

[42] 15 U.S.C. 78mm.

period of 180 days, effective immediately.

By the Commission.

Elizabeth M. Murphy,

Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–60138; File No. SR–NYSE–2009–45]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by New York Stock Exchange LLC Amending NYSE Rule 124 To Clarify the Pricing Methodology for the Odd-Lot Portion of a Part of a Round-Lot Order; Clarify the Systems Capable of Accepting PRL Orders; and Clarify the Systems Capable of Accepting a Good 'Til Cancelled Order During the Implementation of Exchange System Enhancements

June 18, 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 June 8, 2009, New York Stock Exchange LLC (''NYSE'' 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 self-regulatory organization. NYSE 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: (i) Amend NYSE Rule 124 (Odd-Lot Orders) to clarify the pricing methodology for the odd-lot portion of a part of a round-lot (''PRL'') order; (ii) clarify the systems capable of accepting PRL orders; and (iii) clarify the systems capable of accepting a Good 'Til Cancelled Order (''GTC'') during the implementation of Exchange system enhancements. 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

New York Stock Exchange LLC (''NYSE'' or the ''Exchange'') proposes to amend Exchange Rule 124 (Odd-Lot Orders) to clarify the: (i) Pricing methodology for the odd-lot portion of a part of a round-lot (''PRL'')[6] order; and (ii) systems capable of accepting PRL orders during the implementation of Exchange system enhancements.

Background

Currently, odd-lot orders on the Exchange are processed and executed systemically by an Exchange system designated solely for odd-lot orders (the ''Odd-lot System'').[7] The Odd-lot System executes all odd-lot orders against the Designated Marker Maker (''DMM'') as the contra party.[8]

Pursuant to NYSE Rule 124(c), after odd-lot market orders and marketable odd-lot limit orders are received by the Odd-lot System, they are automatically executed at the price of the next round-lot transaction in the subject security on the Exchange. Specifically, marketable odd-lot orders and marketable odd-lot limit orders are executed in time priority of receipt at the price of the next round-lot transaction, pursuant to the netting provision described in footnote 8. The imbalance of marketable odd-lot orders that do not receive an execution as a result of the netting provision are executed in time priority of receipt at the price of the National Best Bid or Offer (''NBBO''), subject to a volume limitation.[9] Any imbalances of odd-lot limit orders that were non-marketable upon receipt that subsequently become marketable receive an execution at their *limit price.*[10] Marketable odd-lot orders, which would otherwise receive a partial execution pursuant to the volume limitation, are executed in full.[11]

Any marketable odd-lot orders that do not receive an execution because of the volume limitation are executed, in time priority of receipt at the price of the next round-lot transaction, following pricing and execution procedures described above. Marketable odd-lot orders (including odd-lot limit orders that were non-marketable upon receipt and subsequently become marketable) that remain unexecuted within 30 seconds of receipt will be executed, in time priority of receipt, at the price of the NBBO (or at its limit price if the order is a non-marketable odd-lot limit order upon receipt that has become marketable). These orders are also subject to the volume limitation.

Marketable odd-lot orders and non-marketable odd-lot limit orders that have become marketable and remain unexecuted prior to the close of trading shall be executed, in time priority of receipt at the price of the closing transaction, subject to the netting provision and a volume restriction which is not to exceed the size of the closing transaction.

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[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).

[6] PRL orders are for a size within the standard unit (round-lot) of trading, which is 100 shares for most stocks, but contains a portion that is smaller than the standard unit of trading, e.g. 199 shares. It should be noted that for certain securities trading on the NYSE the standard unit of trading is 10 shares.

[7] *See* NYSE Rule 124(a).

[8] *Id.* Odd-lot orders are in effect netted against one another and executed; however, since the DMM is buying the same amount that he or she is selling, there is no economic consequence to the DMM in this type of pairing-off of orders. Any imbalance of buy or sell odd-lot market orders are executed against the DMM, up to the size of the round-lot transaction or the bid/offer size which ever is less.

[9] The volume limitation in section (c) of the rule is defined as the lesser of either the number of shares in the last round-lot transaction or the number of shares available at the national best bid (in the case of an odd-lot order to sell), or the national best offer (in the case of an odd-lot order to buy).

[10] Pursuant to NYSE Rule 124(d) odd-lot limit orders that are non-marketable upon receipt that become marketable are eligible to be netted and executed at the price of the next round-lot transaction. If an odd-lot limit order does not receive an execution pursuant to the netting provision, then the order is eligible to be executed, *at its limit price,* subject to the volume limitation of section (c) of the rule.

[11] As with marketable odd-lot orders, non-marketable odd-lot limit orders which would otherwise receive a partial execution will be executed in full. A non-marketable odd-lot limit order that becomes marketable, that remains unexecuted within 30 seconds of receipt will be executed, in time priority of receipt, except that the order will be executed *at its limit price.*

PRL Pricing

The Exchange believes that the most appropriate way to execute odd-lot orders is to represent them in the round-lot auction market where they would interact with all other market interest and be priced in accordance with supply and demand dynamics. The Exchange is committed to the goal of integrating odd-lots into the round-lot market and eliminating the separate handling of odd-lot and PRL transactions. However, until the requisite technology changes can be completed, the Exchange is proposing these modifications in order to further streamline the handling performed by its current systems.

The Exchange amended the pricing methodology of NYSE Rule 124 as interim measures to accommodate the pricing and execution of odd-lot orders in a manner based on the prevailing market.[12] Most recently, significant upgrades to the Exchange's technology[13] made it possible for the Exchange systems that process orders sent to Display Book, the Exchange matching engine, to price odd-lot orders sent to the post that were consistent with the provisions NYSE Rule 124(c) and (d).

On March 11, 2009, the Exchange filed with the Commission to amend NYSE Rule 124.40 to allow the odd-lot portion of PRLs to be executed in the Odd-lot System pursuant to the pricing provisions of NYSE Rule 124.[14] As modified, the odd-lot portion of the PRL retains the time stamp of its original entry as a PRL and is sequenced for execution based on the initial entry time of the PRL. Once all round lot components of the PRL are fully executed, the odd-lot portion of the order is executed at a price consistent with other odd-lot orders subject to the provisions of NYSE Rule 124(c) and (d).

Example: A marketable order to sell 399 shares of security XYZ is received by Exchange systems at 12:00:00. The 99 share portion of the order is eligible for execution only after the 300 share portion of the PRL order is sold. *See* table below.

Time of execution	Number of shares	Price of execution	Customer receives
12:00:01	100	$30.22	Report of Execution 100 shares at a price of $30.22.
12:01:00	100	$30.21	Report of Execution 100 shares at a price of $30.21.
12:01:47	100	$30.22	Report of Execution 100 shares at a price of $30.22.
12:01:48	99	[15] $30.23	Report of Execution 99 shares at a price of $30.23.

In the filing to amend the execution of PRL orders, the Exchange explained that the system enhancements to Display Book would be progressively implemented on a security by security basis. On March 16, 2009, the Exchange commenced migration of symbols to the enhanced systems. This migration is ongoing and PRL orders submitted to the Display Book in those migrated symbols are executed as described above. The list of securities that are operating on the enhanced systems are available on the Exchange's Web site at: *http://www.nyse.com/attachment/SDBK_SecurityRolloutList.xls.*

Systems that process orders sent to the Exchange to be executed by a Floor broker, collectively called Exchange Floor broker systems, are also being upgraded to provide improved functionality. The Exchange Floor broker systems can be divided into two categories—booth systems (Broker Booth Support Systems or ''BBSS'') and hand-held devices. As of yet, neither system has been provided with the newer PRL pricing functionality. As a result, PRLs sent to BBSS are processed pursuant to the prior provisions of NYSE Rule 124, Supplemental Material .40, which requires the odd-lot portion of a PRL to be executed only where no round lot portion thereof is cancelled and at the same price of the last round lot execution that would complete the round lot portion of the PRL.

Example: An order to sell 399 shares of security XYZ is received by Exchange Floor broker systems at 12:00:00. The 99 share portion of the order is eligible for execution only after the 300 share portion of the PRL order is sold. See table below.

Time of execution	Number of shares	Price of execution	Customer receives
12:00:01	100	$30.22	Report of Execution 100 shares at a price of $30.22.
12:01:00	100	$30.21	Report of Execution 100 shares at a price of $30.22.
12:01:47	100	$30.22	Report of Execution 199 shares at a price of $30.22.
12:01:47	99	$30.22	

Until such time as the Exchange Floor broker systems can be enhanced to execute PRL orders pursuant NYSE Rule 124(c) and (d), the Exchange proposes to amend the provisions of NYSE Rule 124.40 to provide that the odd-lot portion of PRL orders transmitted to a Floor broker via the Floor broker booth system for execution will be executed at

[12] *See* Securities Exchange Act Release No. 56551 (September 27, 2007), 72 FR 56415 (October 3, 2007) (SR–NYSE–2007–82); *See also* Securities Exchange Act Release No. 49536 (April 7, 2004), 69 FR 19890, 19893 (April 14, 2004) (SR–NYSE–2003–37); Securities Exchange Act Release No. 49745 (May 20, 2004), 69 FR 29998 (May, 26, 2004) (SR–NYSE–2003–37).

[13] *See* Securities Exchange Act Release No. 58184 (July 17, 2008), 73 FR 42853 (July 23, 2008)(SR–NYSE–2008–46) (Key changes in this filing served to enhance the Exchange technology).

[14] *See* Securities Exchange Act Release No. 59613 (March 20, 2009), 74 FR 13486 (March 27, 2009) (SR–NYSE–2009–27).

[15] This example assumes that the odd-lot portion of the PRL had priority of execution in the Odd-lot system because its original order entry time was 12:00:00.

the same price of the last round lot execution that would complete the round lot portion of the PRL

The Exchange anticipates that the enhancements to the Exchange Floor broker systems will be completed no later than the end of the fourth quarter of 2009.

Systems Capable of Accepting PRL and GTC Orders

During the implementation of the Exchange Floor broker system enhancements, any PRL orders and GTC orders sent to a Floor broker's hand-held device will be rejected. Furthermore, GTC orders in symbols that have been migrated to the enhanced systems noted above will not be accepted in any broker system. PRL and GTC orders (in non-migrated symbols) must be transmitted to BBSS where the customer seeks to utilize a Floor broker's business expertise in the execution of such orders. Once the full migration has been completed, GTC orders will not be accepted by broker systems or broker hand-held devices and PRL orders will not be accepted by broker hand-held devices. Therefore, the Exchange proposes to amend NYSE Rule 13 (Definitions of Orders) to state that GTC orders will not be accepted by broker hand-held devices or broker systems. Similarly, the Exchange proposes to amend NYSE Rule 124.40 to state that PRL orders will not be accepted by broker hand-held devices.

2. Statutory Basis

The basis under the Act for this proposed rule change is the requirement under Section 6(b)(5) [16] 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. The instant proposal is in keeping with these principles in that it seeks to clarify and temporarily modify the Exchange's pricing methodology for PRL orders to provide customers the benefit of the Floor broker's business expertise while the Exchange completes required system enhancements.

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.

[16] 15 U.S.C. 78f(b)(5).

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act [17] and Rule 19b–4(f)(6) thereunder.[18] Because the foregoing proposed rule change: (1) Does not significantly affect the protection of investors or the public interest; (2) impose any significant burden on competition; and (3) by its terms does not become operative for 30 days of this filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [19] and subparagraph (f)(6) of Rule 19b–4 thereunder.[20]

A proposed rule change filed under Rule 19b–4(f)(6) does not normally become operative prior to 30 days after the date of filing.[21] However, Rule 19b–4(f)(6)(iii) permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has requested that the Commission waive the 30-day operative delay so that the proposal may become operative immediately upon filing.

The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because the proposed rule change seeks to avoid investor confusion by clarifying the systems capable of executing PRL and GTC orders and the pricing methodology for such orders. Therefore, the Commission designates the proposed rule change operative upon filing.[22]

[17] 15 U.S.C. 78s(b)(3)(A).

[18] 17 CFR 240.19b–4(f)(6).

[19] 15 U.S.C. 78s(b)(3)(A).

[20] 17 CFR 240.19b–4(f)(6).

[21] *See id.* In addition, Rule 19b–4(f)(6)(iii) requires a self-regulatory organization to provide the Commission with written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[22] 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. 15 U.S.C. 78c(f).

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 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–2009–45 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–2009–45. 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 1 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File

Number SR–NYSE–2009–45 and should be submitted on or before July 16, 2009.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[23]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E9–14956 Filed 6–24–09; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–60137; File No. SR–NYSEArca–2009–54]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to the Listing and Trading of Shares of the iShares® MSCI All Peru Capped Index Fund

June 18, 2009.

Pursuant to Section 19(b)(1)[1] of the Securities Exchange Act of 1934 (''Act'')[2] and Rule 19b–4 thereunder,[3] notice is hereby given that on June 17, 2009, NYSE Arca, Inc. (''NYSE Arca'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The 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 list and trade shares (''Shares'') of the following fund of the iShares® Trust (''Trust''): iShares® MSCI All Peru Capped Index Fund (''Fund''). The text of the proposed rule change is available on the Exchange's Web site at *http://www.nyse.com,* at the Exchange's principal office and at the Public Reference Room of the Commission.

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 list and trade the Shares of the following fund under NYSE Arca Equities Rule 5.2(j)(3), the Exchange's listing standards for Investment Company Units (''ICUs''):[4] iShares® MSCI All Peru Capped Index Fund.[5]

According to the Registration Statement, the Fund seeks investment results that correspond generally to the price and yield performance, before fees and expenses, of the MSCI All Peru Capped Index (the ''Index'').

The Index is sponsored by MSCI, Inc., the Index Provider, that is independent of the Fund and Barclays Global Fund Advisors, the investment adviser to the Fund. The Index Provider determines the composition and relative weightings of the securities in the Index and publishes information regarding the market value of the Index.

The Index is a free float-adjusted market capitalization index with approximately 25 components. Any single security with a free float-adjusted market capitalization weight greater than 22.5% will have its weight capped in the Index at 22.5%. All single securities with a weight greater than 4.5% will have their weights capped such that, in the aggregate, these securities do not have a weight greater than 45% of the Index. The Index is designed to measure the performance of the ''Broad Peru Equity Universe.'' MSCI defines the Broad Peru Equity Universe by identifying Peruvian equity securities that are classified in Peru according to the MSCI Global Investable Market Indices Methodology (a methodology employed by MSCI to construct its Global Investable Market Indices, which classifies eligible securities according to their country of listing) as well as securities of companies that are headquartered in Peru and have the majority of their operations based in Peru. As of May 31, 2009, the Index's three largest constituents were Compania de Minas Buenaventura S.A., Southern Copper Corporation, and Credicorp Ltd.

The Exchange is submitting this proposed rule change because the Index for the Fund does not meet all of the ''generic'' listing requirements of Commentary .01(a)(B) to NYSE Arca Equities Rule 5.2(j)(3) applicable to listing of ICUs based on international or global indexes. The Index meets all such requirements except for those set forth in Commentary .01(a)(B)(2).[6] The Exchange represents that: (1) Except for the requirement under Commentary .01(a)(B)(2) to NYSE Arca Equities Rule 5.2(j)(3) that component stocks that in the aggregate account for at least 90% of the weight of the index each shall have a minimum monthly trading volume during each of the last six months of at least 250,000 shares, the Shares of the Fund currently satisfy all of the generic listing standards under NYSE Arca Equities Rule 5.2(j)(3); (2) the continued listing standards under NYSE Arca Equities Rules 5.2(j)(3) and 5.5(g)(2) applicable to ICUs shall apply to the Shares; and (3) the Trust is required to comply with Rule 10A–3[7] under the Securities Exchange Act of 1934 (''Act'')[8] for the initial and continued listing of the Shares. In addition, the Exchange represents that the Shares will comply with all other requirements applicable to ICUs including, but not limited to, requirements relating to the dissemination of key information such as the Index value and Intraday Indicative Value, rules governing the trading of equity securities, trading hours, trading halts, surveillance,[9] and Information Bulletin to ETP Holders, as set forth in Exchange rules applicable to ICUs and in prior Commission orders

[23] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] An Investment Company Unit is a security that represents an interest in a registered investment company that holds securities comprising, or otherwise based on or representing an interest in, an index or portfolio of securities (or holds securities in another registered investment company that holds securities comprising, or otherwise based on or representing an interest in, an index or portfolio of securities). *See* NYSE Arca Equities Rule 5.2(j)(3)(A).

[5] *See* the Trust's Registration Statement for the Fund on Form N–1A, dated June 17, 2009 (File Nos. 333–92935 and 811–09729).

[6] The Exchange states that the Index fails to meet the requirement of Commentary .01(a)(B)(2) to NYSE Arca Equities Rule 5.2(j)(3) that component stocks that in the aggregate account for at least 90% of the weight of the index each shall have a minimum monthly trading volume of at least 250,000 shares. The Exchange states that, as of May 31, 2009, component stocks that in the aggregate account for 86.23% of the Index weight had a minimum monthly trading volume of at least 250,000 shares.

[7] 17 CFR 240.10A–3.

[8] 15 U.S.C. 78a.

[9] The Exchange may obtain information for surveillance purposes via the Intermarket Surveillance Group (''ISG'') from other exchanges who are members of ISG. The Exchange notes that the Index component stocks do not trade on markets that are ISG members and the Exchange does not have a comprehensive surveillance agreement with such markets. For a list of the current members of ISG, *see http://www.isgportal.org.*

approving the generic listing rules applicable to the listing and trading of ICUs.[10]

Detailed descriptions of the Fund, the Index, the Index Provider, procedures for creating and redeeming Shares, transaction fees and expenses, risks, dividends, distributions, taxes, and reports to be distributed to beneficial owners of the Shares can be found in the Trust's Registration Statement or on the Web site for the Fund (*http://www.ishares.com*), as applicable.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b)[11] of the Act, in general, and furthers the objectives of Section 6(b)(5),[12] 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. The proposed rule change will allow the listing and trading of the Fund on the Exchange, which the Exchange believes will enhance competition among market participants, to the benefit of investors and the marketplace.

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: (1) Does not significantly affect the protection of investors or the public interest; (2) does not impose any significant burden on competition; and (3) by its terms does not become operative for 30 days after the date of this filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A)[13] of the Act and subparagraph (f)(6) of Rule 19b–4[14] thereunder.

A proposed rule change filed under Rule 19b–4(f)(6)[15] normally does not become operative for 30 days after the date of filing. However, Rule 19b–4(f)(6)(iii),[16] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange requests that the Commission waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Exchange states that the proposed rule change does not significantly affect the protection of investors or the public interest and does not impose any significant burden on competition.

The Commission believes waiving the 30-day operative delay is consistent with the protection of investors and the public interest. Recently, NYSE Arca proposed to list another series of ICUs based on an index that is very similar to the Index.[17] The Commission believes that the listing and trading of the Shares do not present any novel or significant issues or impose any significant burden on competition, and that waiving the 30-day operative delay will benefit the market and investors by providing market participants with additional investing choices. For the reasons described above, the Commission designates the proposal to be effective and operative upon filing with the Commission.[18]

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov.* Please include File Number SR–NYSEArca–2009–54 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEArca–2009–54. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEArca–2009–54 and

[10] *See, e.g.,* Securities Exchange Act Release No. 55621 (April 12, 2007), 72 FR 19571 (April 18, 2007) (SR–NYSEArca–2006–86) (order approving generic listing standards for ICUs based on international or global indexes); Securities Exchange Act Release No. 44551 (July 12, 2001), 66 FR 37716 (July 19, 2001) (SR–PCX–2001–14) (order approving generic listing standards for ICUs and Portfolio Depositary Receipts); Securities Exchange Act Release No. 41983 (October 6, 1999), 64 FR 56008 (October 15, 1999) (SR–PCX–98–29) (order approving rules for listing and trading of ICUs).

[11] 15 U.S.C. 78f(b).

[12] 15 U.S.C. 78f(b)(5).

[13] 15 U.S.C. 78s(b)(3)(A).

[14] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires a self-regulatory organization to provide the Commission with written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange satisfied this requirement.

[15] 17 CFR 240.19b–4(f)(6).

[16] 17 CFR 240.19b–4(f)(6)(iii).

[17] Compare the Index with the MSCI All Peru Index, which is described in Securities Exchange Act Release No. 59471 (February 27, 2009), 74 FR 9862 (March 6, 2009).

[18] 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. 15 U.S.C. 78(c)(f).

should be submitted on or before July 16, 2009.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[19]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E9–14972 Filed 6–24–09; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–60139; File No. SR–NYSEAmex–2009–18]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by NYSE Amex LLC Amending NYSE Amex Equities Rule 124 To Clarify the Pricing Methodology for the Odd-Lot Portion of a Part of a Round-Lot Order; Clarify the Systems Capable of Accepting PRL Orders; and Clarify the Systems Capable of Accepting a Good 'Til Cancelled Order During the Implementation of Exchange System Enhancements

June 18, 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 June 8, 2009, NYSE Amex LLC (the ''Exchange'' or ''NYSE Amex'') 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 self-regulatory organization. NYSE Amex 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: (i) Amend NYSE Amex Equities Rule 124 (Odd-Lot Orders) to clarify the pricing methodology for the odd-lot portion of a part of a round-lot (''PRL'') order; (ii) clarify the systems capable of accepting PRL orders; and (iii) clarify the systems capable of accepting a Good 'Til Cancelled Order (''GTC'') during the implementation of Exchange system enhancements. 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

NYSE Amex LLC (''NYSE Amex'' or ''the Exchange''), formerly the American Stock Exchange LLC, proposes to: (i) Amend NYSE Amex Equities Rule 124 (Odd-Lot Orders) to clarify the pricing methodology for the odd-lot portion of a part of a round-lot (''PRL'') order; (ii) clarify the systems capable of accepting PRL orders; and (iii) clarify the systems capable of accepting a Good 'Til Cancelled Order (''GTC'') during the implementation of Exchange system enhancements. The text of the proposed rule change is attached hereto as Exhibit 5.

The Exchange notes that parallel changes are proposed to be made to the rules of the New York Stock Exchange LLC (''NYSE'').[6]

I. Background

As described more fully in a related rule filing,[7] NYSE Euronext acquired The Amex Membership Corporation (''AMC'') pursuant to an Agreement and Plan of Merger, dated January 17, 2008 (the ''Merger''). In connection with the Merger, the Exchange's predecessor, the American Stock Exchange LLC (''Amex''), a subsidiary of AMC, became a subsidiary of NYSE Euronext now called NYSE Amex LLC, and continues to operate as a national securities exchange registered under Section 6 of the Securities Exchange Act of 1934, as amended (the ''Act'').[8] The effective date of the Merger was October 1, 2008.

In connection with the Merger, on December 1, 2008, the Exchange relocated all equities trading conducted on the Exchange legacy trading systems and facilities located at 86 Trinity Place, New York, New York, to trading systems and facilities located at 11 Wall Street, New York, New York (the ''Equities Relocation''). The Exchange's equity trading systems and facilities at 11 Wall Street (the ''NYSE Amex Trading Systems'') are operated by the NYSE on behalf of the Exchange.[9]

As part of the Equities Relocation, NYSE Amex adopted NYSE Rules 1–1004, subject to such changes as necessary to apply the Rules to the Exchange, as the NYSE Amex Equities Rules to govern trading on the NYSE Amex Trading Systems.[10] The NYSE Amex Equities Rules, which became operative on December 1, 2008, are substantially identical to the current NYSE Rules 1–1004 and the Exchange continues to update the NYSE Amex Equities Rules as necessary to conform with rule changes to corresponding NYSE Rules filed by the NYSE.

II. Background of NYSE Amex Equities Rule 124

Currently, odd-lot orders on the Exchange are processed and executed systemically by an Exchange system designated solely for odd-lot orders (the ''Odd-lot System'').[11] The Odd-lot System executes all odd-lot orders against the Designated Marker Maker (''DMM'') as the contra party.[12]

[19] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] 15 U.S.C. 78s(b)(3)(A).

[5] 17 CFR 240.19b–4(f)(6).

[6] *See* SR–NYSE–2009–45 (filed June 8, 2009).

[7] *See* Securities Exchange Act Release No. 58673 (September 29, 2008), 73 FR 57707 (October 3, 2008) (SR–NYSE–2008–60 and SR–Amex 2008–62) (approving the Merger).

[8] 15 U.S.C. 78f.

[9] *See* Securities Exchange Act Release No. 58705 (October 1, 2008), 73 FR 58995 (October 8, 2008) (SR–Amex 2008–63) (approving the Equities Relocation).

[10] *See* Securities Exchange Act Release No. 58705 (October 1, 2008), 73 FR 58995 (October 8, 2008) (SR–Amex 2008–63) (approving the Equities Relocation); Securities Exchange Act Release No. 58833 (October 22, 2008), 73 FR 64642 (October 30, 2008) (SR–NYSE–2008–106) *and* Securities Exchange Act Release No. 58839 (October 23, 2008), 73 FR 64645 (October 30, 2008) (SR–NYSEALTR–2008–03) (implementing the Bonds Relocation); Securities Exchange Act Release No. 59022 (November 26, 2008), 73 FR 73683 (December 3, 2008) (SR–NYSEALTR–2008–10) (adopting amendments to NYSE Amex Equities Rules to track changes to corresponding NYSE Rules); Securities Exchange Act Release No. 59027 (November 28, 2008), 73 FR 73681 (December 3, 2008) (SR–NYSEALTR–2008–11) (adopting amendments to Rule 62—NYSE Amex Equities to track changes to corresponding NYSE Rule 62).

[11] *See* NYSE Amex Equities Rule 124(a).

[12] *Id.* Odd-lot orders are in effect netted against one another and executed; however, since the DMM is buying the same amount that he or she is selling, there is no economic consequence to the DMM in this type of pairing-off of orders. Any imbalance of buy or sell odd-lot market orders are executed

Pursuant to NYSE Amex Equities Rule 124(c), after odd-lot market orders and marketable odd-lot limit orders are received by the Odd-lot System, they are automatically executed at the price of the next round-lot transaction in the subject security on the Exchange. Specifically, marketable odd-lot orders and marketable odd-lot limit orders are executed in time priority of receipt at the price of the next round-lot transaction, pursuant to the netting provision described in footnote 12. The imbalance of marketable odd-lot orders that do not receive an execution as a result of the netting provision are executed in time priority of receipt at the price of the National Best Bid or Offer (''NBBO''), subject to a volume limitation.[13] Any imbalances of odd-lot limit orders that were non-marketable upon receipt that subsequently become marketable receive an execution at their *limit price.*[14] Marketable odd-lot orders, which would otherwise receive a partial execution pursuant to the volume limitation, are executed in full.[15]

Any marketable odd-lot orders that do not receive an execution because of the volume limitation are executed, in time priority of receipt at the price of the next round-lot transaction, following pricing and execution procedures described above. Marketable odd-lot orders (including odd-lot limit orders that were non-marketable upon receipt and subsequently become marketable) that remain unexecuted within 30 seconds of receipt will be executed, in time priority of receipt, at the price of the NBBO (or at its limit price if the order is a non-marketable odd-lot limit order upon receipt that has become marketable). These orders are also subject to the volume limitation.

Marketable odd-lot orders and non-marketable odd-lot limit orders that have become marketable and remain unexecuted prior to the close of trading shall be executed, in time priority of receipt at the price of the closing transaction, subject to the netting provision and a volume restriction which is not to exceed the size of the closing transaction.

PRL Pricing

The Exchange believes that the most appropriate way to execute odd-lot orders is to represent them in the round-lot auction market where they would interact with all other market interest and be priced in accordance with supply and demand dynamics. The Exchange is committed to the goal of integrating odd-lots into the round-lot market and eliminating the separate handling of odd-lot and PRL transactions. However, until the requisite technology changes can be completed, the Exchange is proposing these modifications in order to further streamline the handling performed by its current systems.

NYSE Amex Equities Rule 124 was amended as interim measures to accommodate the pricing and execution of odd-lot orders in a manner based on the prevailing market.[16] Most recently, significant upgrades to the Exchange's technology [17] made it possible for the Exchange systems that process orders sent to Display Book, the Exchange matching engine, to price odd-lot orders sent to the post that were consistent with the provisions of NYSE Amex Equities Rule 124(c) and (d).

On March 11, 2009, the Exchange filed a proposed rule change with the Commission to amend NYSE Amex Equities Rule 124.40 to allow the odd-lot portion of PRLs to be executed in the Odd-lot System pursuant to the pricing provisions of NYSE Amex Equities Rule 124.[18] As modified, the odd-lot portion of the PRL retains the time stamp of its original entry as a PRL and is sequenced for execution based on the initial entry time of the PRL. Once all round lot components of the PRL are fully executed, the odd-lot portion of the order is executed at a price consistent with other odd-lot orders subject to the provisions of NYSE Amex Equities Rule 124(c) and (d).

Example: A marketable order to sell 399 shares of security XYZ is received by Exchange systems at 12:00:00. The 99 share portion of the order is eligible for execution only after the 300 share portion of the PRL order is sold. See table below.

Time of execution	Number of shares	Price of execution	Customer receives
12:00:01	100	$30.22	Report of Execution 100 shares at a price of $30.22.
12:01:00	100	30.21	Report of Execution 100 shares at a price of $30.21.
12:01:47	100	30.22	Report of Execution 100 shares at a price of $30.22.
12:01:48	99	[19]30.23	Report of Execution 99 shares at a price of $30.23.

In the filing to amend the execution of PRL orders, the Exchange explained that the system enhancements to Display Book would be progressively implemented on a security by security basis. On March 16, 2009, the Exchange commenced migration of symbols to the enhanced systems. This migration is ongoing and PRL orders submitted to the Display Book in those migrated symbols are executed as described above. The list of securities that are operating on the enhanced systems, are available on the Exchange's Web site at: *http://www.nyse.com/attachment/SDBK_SecurityRolloutList.xls.*

Systems that process orders sent to the Exchange to be executed by a Floor broker, collectively called Exchange Floor broker systems, are also being upgraded to provide improved functionality. The Exchange Floor broker systems can be divided into two categories—booth systems (Broker

against the DMM, up to the size of the round-lot transaction or the bid/offer size which ever is less.

[13] The volume limitation in section (c) of the rule is defined as the lesser of either the number of shares in the last round-lot transaction or the number of shares available at the national best bid (in the case of an odd-lot order to sell), or the national best offer (in the case of an odd-lot order to buy).

[14] Pursuant to NYSE Amex Equities Rule 124(d) odd-lot limit orders that are non-marketable upon receipt that become marketable are eligible to be netted and executed at the price of the next round-lot transaction. If an odd-lot limit order does not receive an execution pursuant to the netting provision, then the order is eligible to be executed, *at its limit price,* subject to the volume limitation of section (c) of the rule.

[15] As with marketable odd-lot orders, non-marketable odd-lot limit orders which would otherwise receive a partial execution will be executed in full. A non-marketable odd-lot limit order that becomes marketable, that remains unexecuted within 30 seconds of receipt will be executed, in time priority of receipt, except that the order will be executed *at its limit price.*

[16] *See* Securities Exchange Act Release No. 56551 (September 27, 2007), 73 FR 56415 (October 3, 2007) (SR–NYSE–2007–82); *See also* Securities Exchange Act Release No. 49536 (April 7, 2004), 69 FR 19890, 19893 (April 14, 2004) (SR–NYSE–2003–37); Securities Exchange Act Release No. 49745 (May 20, 2004), 69 FR 29998 (May 26, 2004) (SR–NYSE–2003–37).

[17] *See* Securities Exchange Act Release No. 58184 (July 17, 2008), 73 FR 42853 (July 23, 2008) (SR–NYSE–2008–46) (Key changes in this filing served to enhance the Exchange technology).

[18] *See* Securities Exchange Act Release No. 59614 (March 20, 2009), 74 FR 13501 (March 27, 2009) (SR–NYSEALTR–2009–27).

[19] This example assumes that the odd-lot portion of the PRL had priority of execution in the Odd-lot System because its original order entry time was 12:00:00.

Booth Support Systems or ''BBSS'') and hand-held devices. As of yet, neither system has been provided with the newer PRL pricing functionality. As a result, PRLs sent to BBSS are processed pursuant to the prior provisions of NYSE Amex Equities Rule 124, Supplemental Material .40, which requires the odd-lot portion of a PRL to be executed only where no round lot portion thereof is cancelled and at the same price of the last round lot execution that would complete the round lot portion of the PRL.

Example: An order to sell 399 shares of security XYZ is received by Exchange Floor broker systems at 12:00:00. The 99 share portion of the order is eligible for execution only after the 300 share portion of the PRL order is sold. See table below.

Time of execution	Number of shares	Price of execution	Customer receives
12:00:01	100	$30.22	Report of Execution 100 shares at a price of $30.22.
12:01:00	100	30.21	Report of Execution 100 shares at a price of $30.22.
12:01:47	100	30.22	Report of Execution 199 shares at a price of $30.22.
12:01:47	99	30.22	

Until such time as the Exchange Floor broker systems can be enhanced to execute PRL orders pursuant to NYSE Amex Equities Rule 124(c) and (d), the Exchange proposes to amend the provisions of NYSE Amex Equities Rule 124.40 to provide that the odd-lot portion of PRL orders transmitted to a Floor broker via the Floor broker booth system for execution will be executed at the same price of the last round lot execution that would complete the round lot portion of the PRL.

The Exchange anticipates that the enhancements to the Exchange Floor broker systems will be completed no later than the end of the fourth quarter of 2009.

Systems Capable of Accepting PRL and GTC Orders

During the implementation of the Exchange Floor broker system enhancements, any PRL orders and GTC orders sent to a Floor broker's hand-held device will be rejected. Furthermore, GTC orders in symbols that have been migrated to the enhanced systems noted above will not be accepted in any broker system. PRL and GTC orders (in non-migrated symbols) must be transmitted to BBSS where the customer seeks to utilize a Floor broker's business expertise in the execution of such orders. Once the full migration has been completed, GTC orders will not be accepted by broker systems or broker hand-held devices and PRL orders will not be accepted by broker hand-held devices. Therefore, the Exchange proposes to amend NYSE Amex Equities Rule 13 (Definitions of Orders) to state that GTC orders will not be accepted by broker hand-held devices or broker systems. Similarly, the Exchange proposes to amend NYSE Amex Equities Rule 124.40 to state that PRL orders will not be accepted by broker hand-held devices.

2. Statutory Basis

The basis under the Act for this proposed rule change is the requirement under Section 6(b)(5)[20] 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. The instant proposal is in keeping with these principles in that it seeks to clarify and temporarily modify the Exchange's pricing methodology for PRL orders to provide customers the benefit of the Floor broker's business expertise while the Exchange completes required system enhancements.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[21] and Rule 19b–4(f)(6) thereunder.[22] Because the foregoing proposed rule change: (1) Does not significantly affect the protection of investors or the public interest; (2) impose any significant burden on competition; and (3) by its terms does not become operative for 30 days of this filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act[23] and subparagraph (f)(6) of Rule 19b–4 thereunder.[24]

A proposed rule change filed under Rule 19b–4(f)(6) does not normally become operative prior to 30 days after the date of filing.[25] However, Rule 19b–4(f)(6)(iii) permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has requested that the Commission waive the 30-day operative delay so that the proposal may become operative immediately upon filing.

The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because the proposed rule change seeks to avoid investor confusion by clarifying the systems capable of executing PRL and GTC orders and the pricing methodology for such orders. Therefore, the Commission designates the proposed rule change operative upon filing.[26]

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

[20] 15 U.S.C. 78f(b)(5).

[21] 15 U.S.C. 78s(b)(3)(A).

[22] 17 CFR 240.19b–4(f)(6).

[23] 15 U.S.C. 78s(b)(3)(A).

[24] 17 CFR 240.19b–4(f)(6).

[25] *See id.* In addition, Rule 19b–4(f)(6)(iii) requires a self-regulatory organization to provide the Commission with written notice of its intent to file the proposed rule change, along with a brief descriptiption 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.

[26] 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. 15 U.S.C. 78c(f).

necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance 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–2009–18 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–2009–18.* This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml).* Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEAmex–2009–18 and should be submitted on or before July 16, 2009.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[27]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E9–14957 Filed 6–24–09; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–60143; File No. SR–OC–2009–02]

Self-Regulatory Organizations; One Chicago, LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Widening the Bid/Ask Spread for Quoting Market-Makers

June 19, 2009.

Pursuant to Section 19(b)(7) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–7 under the Act[2] notice is hereby given that on June 9, 2009, One Chicago, LLC (''OneChicago'' or ''OCX'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons. OneChicago also has filed the proposed rule change with the Commodity Futures Trading Commission (''CFTC'') under Section 5c(c) of the Commodity Exchange Act[3] on June 9, 2009.

I. Self-Regulatory Organization's Description of the Proposed Rule Change

OneChicago is proposing to amend its Rule 515(n)(C)(1)(y) to change the quoting requirements for Market Makers. Additionally, OCX is proposing to amend its ''Market Maker Registration Policy and Procedures'' to reflect this amendment.

Presently a market-maker, when providing quotations, quotes with a maximum bid/ask spread of no more than the greater of $0.20 (the ''20 Cent Spread'') or 150% of the bid/ask spread in the primary market for the security underlying each Contract (the ''150% Spread''). The proposed rule change will raise the 20 Cent Spread to $5. A copy of this filing is available on the Exchange's Web site at *http://www.onechicago.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. OneChicago has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of this proposed rule change is to modify the quoting requirements for OCX market makers. Presently a market-maker, when providing quotations, quotes with a maximum bid/ask spread of no more than the greater of the 20 Cent Spread or the150% Spread. The proposed rule change will raise the 20 Cent Spread to $5. Currently, the volatile market conditions have caused several OneChicago market makers to either stop quoting in a particular name or seek relief from OneChicago to widen their quotes to a competitive level, which could be $5.

The proposed rule change would harmonize the maximum bid/ask spread requirements with those of the listed options exchanges, *e.g.* the Chicago Board Options Exchange (CBOE) and the International Securities Exchange (ISE). Both of those exchanges permit ''bidding and offering so as to create differences of no more than $5 between the bid and offering following the opening rotation * * *.''

The Exchange believes that the 20 Cent Spread is no longer necessary or appropriate considering the increased volatility of the underlying securities. The Exchange further believes that the current 20 Cent Spread could have a negative effect on investors because market makers, rather than complying with these requirements, will stop quoting a security futures product altogether, leaving the investor with the possibility of an illiquid position. The Exchange has been able to mitigate this problem by granting ''relief'' from the 20 Cent Spread ''during unusual market

[27] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(7).

[2] 17 CFR 240.19b–7.

[3] 7 U.S.C. 7a–2(c).

conditions,''[4] such as those in the current environment. Nevertheless, OCX believes that for the integrity of the marketplace, that the $5 spread be codified.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b)(5) of the Act[5] in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to protect investors and the public interest, and to remove impediments to and perfect the mechanism for a free and open market and a national market system. Further, this proposed rule change is nearly identical to those of the CBOE[6] and the ISE[7] and therefore under Section 6(h)(3)(C), the requirements for listing standards and conditions for trading for security futures must ''be no less restrictive than comparable listing standards for options traded on a national securities exchange * * *.''

B. Self-Regulatory Organization's Statement on Burden on Competition

OneChicago does not believe that the proposed rule change will have an impact on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Comments on the OneChicago proposed rule change have not been solicited and none has been received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The proposed rule change will become effective on June 9, 2009. At any time within 60 days of the date of effectiveness of the proposed rule change, the Commission, after consultation with the CFTC, may summarily abrogate the proposed rule change and require that the proposed rule change be refilled in accordance with the provisions of Section 19(b)(1) of the Act.[8]

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–OC–2009–02 on the subject line.

Paper Comments:

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–OC–2009–02. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–OC–2009–02 and should be submitted on or before July 16, 2009.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[9]

Florence E. Harmon,

Deputy Secretary.

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BILLING CODE 8010–01–P

[4] Exchange Rule 515(n)(C)(1).

[5] 15 U.S.C. 78f (b)(5).

[6] CBOE Rule 8.7(b)(iv)(C).

[7] ISE Rule 803(b)(4).

[8] 15 U.S.C. 78s(b)(1).

[9] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–60146; File No. SR–ISE–2009–32]

Self-Regulatory Organizations; International Securities Exchange, LLC; Notice of Filing of Proposed Rule Change Relating to the Penny Pilot Program

June 19, 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 June 11, 2009, the International Securities Exchange, LLC (''Exchange'' or the ''ISE'') filed with the Securities and Exchange Commission (the ''SEC'' or the ''Commission'') the proposed rule change as described in Items I, II, and III below, which items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The ISE proposes to amend its rules relating to a pilot program to quote and to trade certain options in pennies. The text of the proposed rule change is as follows, with deletions in [brackets] and additions *in italics:*

Rule 710. Minimum Trading Increments

(a) The Board may establish minimum trading increments for options traded on the Exchange. Such changes by the Board will be designated as a stated policy, practice, or interpretation with respect to the administration of this Rule 710 within the meaning of subparagraph (3)(A) of Section 19(b) of the Exchange Act and will be filed with the SEC as a rule change for effectiveness upon filing. Until such time as the Board makes a change in the increments, the following principles shall apply:

(1) if the options contract is trading at less than $3.00 per option, $.05; and

(2) if the options contract is trading at $3.00 per option or higher, $.10.

(b) Minimum trading increments for dealings in options contracts other than those specified in paragraph (a) may be fixed by the Exchange from time to time for options contracts of a particular series.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

(c) Notwithstanding the above, the Exchange may trade in the minimum variation of the primary market in the underlying security.

Supplementary Material to Rule 710

.01 Notwithstanding any other provision of this Rule 710, the Exchange will operate a pilot program to permit options classes to be quoted and traded in: [increments as low as $.01.]

(a) $.01 increments if the options contract is trading at less than $1.00 per option;

(b) $.05 increments if the options contract is trading between $1.00 and $3.00 per option; and

(c) $.10 increments if the options contract is trading at higher than $3.00 per option.

The Exchange will specify which options trade in such pilot, and in what increments, in Regulatory Information Circulars filed with the Commission pursuant to Rule 19b–4 under the Exchange Act and distributed to Members.

.02 No Change.

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, 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 parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

On January 24, 2007, the SEC approved ISE's rule filing, SR–ISE–2006–62, which initiated a pilot program to quote and to trade certain options in penny increments (the ''Penny Pilot Program'').[3] Under the Penny Pilot Program, the minimum price variation for all participating options classes, except for the Nasdaq-100 Index Tracking Stock (''QQQQ''), is $0.01 for all quotations in options series that are quoted at less than $3 per contract and $0.05 for all quotations in options series that are quoted at $3 per contract or greater. The QQQQs are quoted in $0.01 increments for all options series. Through subsequent expansions, the Penny Pilot now consists of 63 underlying securities.[4] The Penny Pilot Program is scheduled to expire on July 3, 2009. ISE now proposes to extend the Penny Pilot Program through December 31, 2010.

The Exchange also proposes to expand the number of issues included in the Penny Pilot Program to include the top 300 most actively traded multiply listed options classes that are not currently a part of the Penny Pilot Program. ISE is prepared to further expand the Penny Pilot Program to all ISE listed symbols at the end of the proposed extension, subject to the performance of the expanded pilot, as proposed by this rule change.

Under this proposal, these additional classes will be determined based on their national average daily volume over a six month period immediately preceding their inclusion in the Penny Pilot Program.[5] The Exchange notes that it will submit proposed rule changes pursuant to Rule 19b–4 under the Exchange Act announcing the names of the options classes selected to participate in the Penny Pilot Program.[6] The Exchange represents that after the addition of the 300 options classes, as proposed under this rule change, it has the necessary system capacity to support the listing of additional series under the Penny Pilot Program.

The Exchange proposes to extend the existing Penny Pilot Program until October 1, 2009 and then phase in the additional classes to the Penny Pilot Program over four successive quarters. Specifically, the Exchange proposes to add 35 classes in October 2009 and in January 2010 followed by an additional 115 classes both in April 2010 and in July 2010, each group to be effective for trading on the Monday ten days after Expiration Friday. Thus, the quarterly additions would be effective on October 26, 2009; January 25, 2010; April 26, 2010; and July 26, 2010.[7] The above roll-out schedule contemplates the launch of the new Linkage Plan, which is scheduled to occur on August 31, 2009. ISE believes that the new Linkage Plan should be implemented before the current Penny Pilot Program is expanded because intermarket sweep orders (ISOs) will be available in the new Linkage Plan, which will allow market participants to access simultaneously better priced quotations across all options exchanges.

During the course of the Penny Pilot Program, ISE has thoroughly analyzed the impact of trading options in penny increments. ISE has also submitted reports to the SEC describing its findings. For the most part, the Penny Pilot Program has continued without any operational issues. The quoted spread tightened in the year following introduction of pennies, but widened for phase 1 and 2 symbols in the past six months. The size available at the BBO, however, has decreased significantly since the start of the Penny Pilot Program, while trading volume has increased.

Despite the increase in the number of quotes that is in large part attributed to the Penny Pilot Program, ISE is supportive of an expanded Penny Pilot Program but one that is measured. Quoting options in penny increments also significantly increases quotation traffic and imposes significant costs on exchanges, market makers and other market participants. Thus, ISE believes that a focused expansion where there would be the most benefit is the responsible and prudent way to proceed. Accordingly, ISE proposes to expand the Penny Pilot Program by adopting three ''breakpoints,'' as follows:

- $0.01 increments for options contracts trading at less than $1.00 per option;
- $0.05 increments for options contracts trading between $1.00 and $3.00 per option; and
- $0.10 increments for options contracts trading higher than $3.00 per option.

ISE believes an expansion with these tiers will allow the industry to manage the large number of quotes generated in high-priced series that have little, if any, trading volume, and which thus far have been excluded from the Penny Pilot

[3] *See* Securities Exchange Act Release No. 55161 (January 24, 2007), 72 FR 4754 (February 1, 2007) (the ''Initial Filing''). The Penny Pilot Program was subsequently extended for an additional two month period, until September 27, 2007. *See* Securities Exchange Act Release No. 56151 (July 26, 2007), 72 FR 42452 (August 2, 2007).

[4] *See* Securities Exchange Act Release Nos. 56564 (September 27, 2007), 72 FR 56412 (October 3, 2007) and 57508 (March 17, 2008), 73 FR 15243 (March 21, 2008).

[5] The Exchange will not include options classes in which the issuer of the underlying security is subject to an announced merger or is in the process of being acquired by another company, or if the issuer is in bankruptcy. For purposes of assessing national average daily volume, the Exchange will use data compiled and disseminated by the Options Clearing Corporation.

[6] ISE will also issue a Regulatory Information Circular, which will be published on its Web site, identifying the options classes added to the Penny Pilot Program.

[7] For purposes of identifying the issues to be added per quarter, the Exchange shall use data from the prior six calendar months immediately preceding the implementation month. For example, the quarterly additions to be added on October 26, 2009 shall be determined using data from the sixth month period ending September 30, 2009.

Program due to their high quotation rates. If these options were migrated to pennies indiscriminately, the number of quotes sent to OPRA for these series would double. By retaining these tiers, ISE believes that the number of quotes generated by high priced series will be manageable and adequate liquidity will be maintained in higher priced option series. ISE's proposal would also apply to the QQQQs, which are currently quoted in $0.01 increments for all options series.

The Penny Pilot Program generally has been beneficial to retail investors and ISE believes its proposal would preserve the benefits of penny trading for lower-priced, more retail-oriented contracts. Institutional investors, on the other hand, have been disadvantaged with the lack of liquidity at the inside in the classes that are currently in the pilot and the Exchange believes its proposal will serve to increase the displayed liquidity for options trading above $1.00.

As proposed in the Initial Filing, ISE represents that options trading in penny increments will not be eligible for split pricing, as permitted under ISE Rule 716. In the Initial Filing, the Exchange also made references to quote mitigation strategies that are currently in place and proposed to apply them to the Penny Pilot Program. The Exchange proposes to continue applying those quote mitigation strategies during the extension of the Penny Pilot Program, as contemplated by this rule filing. Specifically, as proposed in Rule 804, ISE will continue to utilize a holdback timer that delays quotation updates for up to, but not longer than, one second. The Exchange's monitoring and delisting policies, as proposed in the Initial Filing, shall also continue to apply.

The Exchange agrees to submit semi-annual reports to the Commission analyzing the Penny Pilot Program for the following time periods:

- July 1, 2009–December 31, 2009.
- January 1, 2010–June 30, 2010.
- July 1, 2010–December 31, 2010.

The Exchange anticipates its report will analyze the impact of penny pricing on market quality and options system capacity. The Exchange will submit the report within one month following the end of the period being analyzed.

ISE believes in a measured extension and expansion of the Penny Pilot Program. A properly thought out plan will serve to benefit public customers by providing them with penny quoting and trading in a greater number of actively traded securities. While an expansion of the Penny Pilot Program will lead to greater quotation traffic and confront exchanges with systems capacity issues, the Exchange believes that the benefits of the Penny Pilot Program outweigh these costs.

2. Statutory Basis

The basis under the Securities Exchange Act of 1934 (the ''Exchange Act'') for this proposed rule change is found in Section 6(b)(5), in that the proposed rule change is designed to promote just and equitable principles of trade, remove impediments to and perfect the mechanisms of a free and open market and a national market system and, in general, to protect investors and the public interest. In particular, the proposed rule change allows for a measured expansion of the Penny Pilot Program for the benefit of market participants.

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 such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. In addition, the Commission seeks comment on the following issues:

1. The Commission requests comment specifically on the extent and cost of the impact, if any, to market participants' technological systems and platforms to accommodate ISE's proposed change in breakpoints for option classes included in the Penny Pilot.

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–2009–32 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–2009–32. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing will also be available for inspection and copying at the principal office of the self-regulatory organization. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–ISE–2009–32 and should be submitted on or before July 16, 2009.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[8]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E9–14959 Filed 6–24–09; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–60140; File No. SR–NYSEAmex-2009–27]

Self-Regulatory Organizations; NYSE Amex LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to WAIT Modifiers, PNP Plus Orders, and Attributable Orders

June 18, 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 June 8, 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 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 900.3NY to (i) offer the ''WAIT'' order modifier for use with orders entered into the NYSE Amex System; (ii) allow the use of attributable orders (iii) offer PNP Plus orders. The WAIT modifier is designed to enhance compliance with the order exposure requirement of NYSE Amex Rule 935NY. Attributable orders allow users to voluntarily display their firm IDs on the orders. PNP Plus orders allow Users greater control over the circumstances of order execution. 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

WAIT Orders

On May 21, 2009, the Securities and Exchange Commission approved NYSE Amex's proposal to reduce the order exposure requirement of Rule 935NY from three seconds to one second.[3] Rule 935NY prohibits Users from executing as principal orders they represent as agent unless (i) agency orders are first exposed on the Exchange for at least one (1) second or (ii) the User has been bidding or offering on the Exchange for at least one (1) second prior to receiving an agency order that is executable against such bid or offer. This Rule insures that a User does not gain at the expense of customers by depriving them of the opportunity to interact with orders in the NYSE Amex System.

Users that enter agency orders into the NYSE Amex System have noted the proposal by the NASDAQ Options Market (''NOM'') for a WAIT order modifier,[4] and have asked the Exchange to develop an automated mechanism that permits them to enter orders into the NYSE Amex System as soon as the orders are received but that also prevents them from interacting with their own agency orders in violation of the order exposure requirement. NYSE Amex believes this is an efficient use of resources because it will allow NYSE Amex to program its System once rather than have multiple Users re-program their systems.

In order to accomplish that request, NYSE Amex has developed the ''WAIT'' modifier which can be appended to an order prior to entry into the NYSE Amex System. The WAIT modifier will instruct the System to wait precisely one second from the time of order entry before processing the order in accordance with the other instructions attached to that order. Upon expiration of the one-second WAIT period, the System will time stamp, route, display, or execute the order in accordance with the entering party's other order entry instructions. Thus, the WAIT modifier does not affect the existing display, routing, or execution priorities of the NYSE Amex System or any other obligations of Users as set forth in the NYSE Amex rules.

Orders designated with the WAIT modifier are independent of all other orders, including an agency order that is being exposed pursuant to Rule 935NY. WAIT orders are not associated or in any way linked to another order entered into the System, as is the case with certain facilitation orders at other options exchanges. The System will process the WAIT order even if a customer order entered into the System simultaneously with the WAIT order has been executed or cancelled during the WAIT second, unless the WAIT order itself is modified or cancelled pursuant to System rules. As a result, there is no guarantee that an order designated as WAIT will execute against another specific order. Use of the WAIT modifier is completely voluntary.

Attributable Orders

The Exchange proposes to modify Rule 900.3NY (Orders Defined) to allow for the submission of attributable orders. These orders allow users to voluntarily display their firm IDs on the orders.[5] The NASDAQ Options Market, LLC (''NOM'') currently allows its participants to submit attributable orders (See NOM Chapter VI, Section (1)(d)(1)).[6] As proposed, the Exchange may limit the processes for which attributable orders will be available. This proposal is responsive to requests by Exchange Users who believe that enhanced executions may be obtained if Firm ID is allowed on orders (on a voluntary basis).

[8] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C.78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Exchange Act Release No. 59956 (May 21, 2009), 74 FR 25782 (May 29, 2009) (SR–NYSEAmex-2009–15) (Order Granting Accelerated Approval of Proposed Rule Change, as Modified by Amendment No. 1, Amending Rule 935NY—Order Exposure Requirements to Reduce the Exposure Periods from Three Seconds to One Second).

[4] *See* Exchange Act Release No. 59557 (March 11, 2009), 74 FR 11389 (March 17, 2009) (SR–NASDAQ–2009–017).

[5] A Firm ID is a 5 character identification code (letters and/or numbers) Each ATP Holder is assigned its own unique Firm ID.

[6] The Chicago Board Options Exchange (''CBOE'') also allows attributable orders. *See* Exchange Act Release No, 58394 (August 20, 2008), 73 FR 50379 (August 26, 2008) (SR–CBOE–2008–85) (Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Adopting A New Order Type).

PNP Plus

As part of its continuing efforts to enhance participation on the Exchange, and provide additional tools to control the circumstances in which orders are executed, NYSE Amex proposes to adopt an order type known as ''PNP Plus.'' PNP Plus Orders are currently offered on the NYSE Arca Equities market.[7]

A PNP Order is an order entered into the NYSE Amex System for execution on the Exchange, but not for routing to away markets. Because of the condition to not route PNP orders, they are cancelled if they would otherwise lock or cross the NBBO.

Customers have requested that the exchange develop a PNP Order type that would, if marketable against the NBBO but not executable on the Exchange, be represented in the Exchange's disseminated market by re-pricing the order. Specifically, if posting a PNP Plus order or a portion thereof would otherwise result in locking or crossing the NBBO, the PNP order would automatically be re-priced to be one Minimum Price Valuation (''MPV'') greater than the NBBO bid (for sell orders) or one MPV less than the NBBO offer (for buy orders), thus avoiding locking or crossing the NBBO. The re-priced bid or offer is included in the Exchange's disseminated quote.

If the NBBO changes, and the order is marketable against the new NBBO, but still not executable on the Exchange, the PNP Plus order would again be re-priced to be one MPV away from the NBBO. When re-priced, the PNP Plus order is re-ranked at the new price. The order would continue to be re-priced and re-ranked with each change in the NBBO, until such time that the NBBO moves such that the original price of the PNP Plus Order would no longer lock or cross the NBBO. The PNP Plus Order would then automatically be re-priced back to its original limit price and re-ranked in the Consolidated Book. The PNP Plus Order will not be re-priced if the order becomes locked or crossed by another market.

The Exchange believes that the implementation of the aforementioned rule change modifying NYSE Amex order entry options will enhance compliance with NYSE Amex rules, preserve order execution opportunities on the NYSE Amex market, provide greater control over the circumstances of executions, and provide an opportunity for enhanced executions.

[7] *See* NYSE Arca Equities Rule 7.31(w)(1).

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with and furthers the objectives of Section 6(b)(5) of the Act, in that it is designed to promote just and equitable principles of trade, remove impediments to and perfect the mechanisms of a free and open market and a national market system and, in general, to protect investors and the public interest, by providing investors with additional order types that allow greater flexibility in maintaining compliance with the rules, or providing an opportunity for enhanced executions, or managing the circumstances in which their orders are executed.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[8] and Rule 19b–4(f)(6) thereunder.[9] Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act[10] and Rule 19b–4(f)(6) thereunder.[11]

The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because the proposed rule change is based on existing rules of other exchanges[12] and does not appear to present any novel or significant issues. The Commission hereby grants the Exchange's request.[13]

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–2009–27 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–2009–27. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the

[8] 15 U.S.C. 78s(b)(3)(A)(iii).

[9] 17 CFR 240.19b–4(f)(6).

[10] 15 U.S.C. 78s(b)(3)(A).

[11] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires the Exchange to give the Commission written notice of the Exchange's intent to file the proposed rule change along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied the pre-filing requirement.

[12] *See, e.g.,* Securities Exchange Act Release No. 59737 (April 9, 2009) 74 FR 18018 (April 20, 2009) (SR–NYSEArca–2009–27) (adopting ''WAIT'' order modifier, attributable orders, and PNP Plus order type).

[13] 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).

Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing will also be available for inspection and copying at the principal office of the self-regulatory organization. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEAmex–2009–27 and should be submitted on or before July 16, 2009.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[14]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E9–14961 Filed 6–24–09; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–60128; File No. SR–NYSEArca–2009–53]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to the Listing and Trading of ProShares UltraShort MSCI Mexico Investable Market Fund

June 17, 2009.

Pursuant to Section 19(b)(1)[1] of the Securities Exchange Act of 1934 (''Act'')[2] and Rule 19b–4 thereunder,[3] notice is hereby given that on June 12, 2009, NYSE Arca, Inc. (''NYSE Arca'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to list and trade shares (''Shares'') of the following fund of the ProShares Trust (''Trust''): ProShares UltraShort MSCI Mexico Investable Market Fund. The text of the proposed rule change is available on the Exchange's Web site at *http://www.nyse.com,* at the Exchange's principal office and at the Public Reference Room of the Commission.

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 list and trade the Shares of the following fund under NYSE Arca Equities Rule 5.2(j)(3), the Exchange's listing standards for Investment Company Units (''ICUs''):[4] ProShares UltraShort MSCI Mexico Investable Market Fund (the ''Fund''). The Fund is an ''index fund'' that seeks to provide daily investment results that, before fees and expenses, correspond to twice the inverse (−200%) of the daily performance of the MSCI Mexico Investable Market Index (''Index''). The Fund does not seek to achieve its stated objective over a period of time greater than one day.

According to the Trust's Registration Statement,[5] the Index measures the performance of the Mexican equity market. The Index is a capitalization-weighted index that aims to capture 99% of the publicly available total market capitalization. Component companies are adjusted for available float and must meet objective criteria for inclusion in the Index, taking into consideration unavailable strategic shareholdings and limitations to foreign ownership. As of March 31, 2009, the Index was concentrated in the telecommunications services industry group, which comprised 43% of the market capitalization of the Index, and included companies with capitalizations between $13 million and $26 billion. The average capitalization of the companies comprising the Index was approximately $1.7 billion.

The Exchange is submitting this proposed rule change because the Index for the Fund does not meet all of the ''generic'' listing requirements of Commentary .01(a)(B) to NYSE Arca Equities Rule 5.2(j)(3) applicable to listing of ICUs based on international or global indexes. The Index meets all such requirements except for those set forth in Commentary .01(a)(B)(3).[6] The Exchange represents that (1) except for the requirement under Commentary .01(a)(B)(3) to NYSE Arca Equities Rule 5.2(j)(3) that the most heavily weighted component stock shall not exceed 25% of the weight of the Index and that the five most heavily weighted component stocks shall not exceed 60% of the weight of the Index, the Shares of the Fund currently satisfy all of the generic listing standards under NYSE Arca Equities Rule 5.2(j)(3); (2) the continued listing standards under NYSE Arca Equities Rules 5.2(j)(3) and 5.5(g)(2) applicable to ICUs shall apply to the Shares; and (3) the Trust is required to comply with Rule 10A–3[7] under the Securities Exchange Act of 1934 (the ''Act'') for the initial and continued listing of the Shares. In addition, the Exchange represents that the Shares will comply with all other requirements applicable to ICUs including, but not limited to, requirements relating to the dissemination of key information such as the Index value and Intraday Indicative Value, rules governing the trading of equity securities, trading

[14] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] An Investment Company Unit is a security that represents an interest in a registered investment company that holds securities comprising, or otherwise based on or representing an interest in, an index or portfolio of securities (or holds securities in another registered investment company that holds securities comprising, or otherwise based on or representing an interest in, an index or portfolio of securities). *See* NYSE Arca Equities Rule 5.2(j)(3)(A).

[5] *See* the Trust's Registration Statement on Form N–1A, dated June 2, 2009 (File Nos. 333–89822 and 811–21114) (''Registration Statement'').

[6] Specifically, the Index fails to meet the requirement that the most heavily weighted component stock shall not exceed 25% of the weight of the Index. As of May 27, 2009, the most heavily weighted component stock (America Movil) represented 32.65% of the Index weight. In addition, the Index fails to meet the requirement that the five most heavily weighted component stocks shall not exceed 60% of the weight of the Index. As of May 27, 2009, the five most heavily weighted component stocks represented 60.64% of the Index weight.

[7] 17 CFR 240.10A–3.

hours, trading halts, surveillance [8] and Information Bulletin to ETP Holders, as set forth in prior Commission orders approving the generic listing rules applicable to the listing and trading of ICUs.[9]

Detailed descriptions of the Fund, the Index, procedures for creating and redeeming Shares, transaction fees and expenses, dividends, distributions, taxes, and reports to be distributed to beneficial owners of the Shares can be found in the Trust's Registration Statement or on the Web site for the Fund (*http://www.proshares.com*), as applicable.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b) [10] of the Act, in general, and furthers the objectives of Section 6(b)(5),[11] 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. The Exchange believes that the proposed rule change will facilitate the listing and trading of an additional type of exchange-traded product that will enhance competition among market participants, to the benefit of investors and the marketplace.

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: (1) Does not significantly affect the protection of investors or the public interest; (2) does not impose any significant burden on competition; and (3) by its terms does not become operative for 30 days after the date of this filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) [12] of the Act and subparagraph (f)(6) of Rule 19b–4 [13] thereunder.

A proposed rule change filed under Rule 19b–4(f)(6) [14] normally does not become operative for 30 days after the date of filing. However, Rule 19b–4(f)(6)(iii),[15] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange requests that the Commission waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Exchange states that the proposed rule change does not significantly affect the protection of investors or the public interest and does not impose any significant burden on competition.

The Commission believes waiving the 30-day operative delay is consistent with the protection of investors and the public interest. At least one other series of ICUs listed on the Exchange is based upon the Index.[16] The Commission believes that the listing and trading of the Shares do not present any novel or significant issues or impose any significant burden on competition, and that waiving the 30-day operative delay will benefit the market and investors by providing market participants with additional investing choices. For these reasons, the Commission designates the proposed rule change as operative upon filing.[17]

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include File Number SR–NYSEArca–2009–53 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEArca–2009–53. 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

[8] The Exchange may obtain information for surveillance purposes via the Intermarket Surveillance Group (''ISG'') from other exchanges who are members of ISG. For a list of current members of ISG, see *http://www.isgportal.org.* However, the Exchange does not have in place a comprehensive surveillance agreement with the Bolsa Mexicana de Valores and such exchange is not an ISG member.

[9] *See, e.g.,* Securities Exchange Act Release Nos. 55621 (April 12, 2007), 72 FR 19571 (April 18, 2007) (SR–NYSEArca–2006–86) (order approving generic listing standards for ICUs based on international or global indexes); 44551 (July 12, 2001), 66 FR 37716 (July 19, 2001) (SR–PCX–2001–14) (order approving generic listing standards for ICUs and Portfolio Depositary Receipts); 41983 (October 6, 1999), 64 FR 56008 (October 15, 1999) (SR–PCX–98–29) (order approving rules for listing and trading of ICUs). *See* e-mail from Tim Malinowski, Director, NYSE Euronext, to David Liu, Assistant Director, Division of Trading and Markets, Commission, dated June 17, 2009.

[10] 15 U.S.C. 78f(b).

[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 a self-regulatory organization to provide the Commission with written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[14] 17 CFR 240.19b–4(f)(6).

[15] 17 CFR 240.19b–4(f)(6)(iii).

[16] *See* Securities Exchange Act Release No. 57320 (February 13, 2008), 73 FR 9395 (February 20, 2008) (SR–NYSEArca–2008–15) (approving the listing and trading of shares of the iShares MSCI Mexico Index Fund).

[17] 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. 15 U.S.C. 78(c)(f).

Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEArca–2009–53 and should be submitted on or before July 16, 2009.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[18]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E9–14899 Filed 6–24–09; 8:45 am]

BILLING CODE 8010–01–P

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 shown 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 August 24, 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 we list above.

1. *Medicare Part B Income-Related Premium—Life-Changing Event Form—20 CFR 408.1125–.1201—0960–0735.* Per the Medicare Modernization Act of 2003, selected recipients of Medicare Part B insurance pay an income-related monthly adjustment amount (IRMAA). The Internal Revenue Service (IRS) uses income tax return data to determine the amount of IRMAA. SSA uses Form SSA–44 to determine if a recipient qualifies for a reduction in IRMMA. If affected Medicare Part B recipients believe more recent tax data should be used because a life-changing event has occurred that significantly reduces his/her income, they can report these changes to SSA and ask for a new initial determination of his/her IRMAA. The respondents are Medicare Part B recipients who have a modified adjusted gross income over a high-income ''threshold.''

Type of Request: Extension of an OMB-approved information collection.

Method of information collection	Number of respondents	Frequency of response	Average burden per response (mins.)	Estimated annual burden (hours)
Personal Interview	128,000	1	30	64,000
Form	32,000	1	45	24,000
Totals	160,000	—	—	88,000

II. SSA has submitted the information collections we list 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 July 27, 2009. You can obtain a copy of the OMB clearance packages by calling the SSA Reports Clearance Officer at 410–965–3758 or by writing to the above e-mail address.

1. *Request for Internet Services—Authentication; Automated Telephone Speech Technology—Knowledge-Based Authentication—20 CFR 401.45—0960–0596.*

To verify identity, SSA requests individuals and third parties who seek personal information from SSA records, or register to participate in SSA's online business services, to provide certain identifying information. As an extra measure of protection, SSA asks requestors who use the Internet and telephone services to provide additional identifying information unique to those services so SSA can authenticate their identities before releasing personal information. The respondents are current beneficiaries who are requesting personal information from SSA and/or individuals or third parties who are registering for SSA's online business services.

Type of Request: Extension of an OMB-approved information collection.

Forms	Number of respondents	Frequency of response	Average burden per response (mins.)	Burden hours
Internet Requestors	3,357,503	1	1½	83,938
Telephone Requestors	24,171,867	1	1½	604,297

[18] 17 CFR 200.30–3(a)(12).

Forms	Number of respondents	Frequency of response	Average burden per response (mins.)	Burden hours
Totals	27,529,370			688,235

2. *Application for Special Benefits for World War II Veterans—20 CFR 408, Subparts B, C and D—0960–0615.* Title VIII of the Social Security Act (Special Benefits for Certain World War II Veterans) allows a qualified World War II veteran who resides outside the United States to receive monthly payments. The regulations set out the requirements an individual needs to meet to qualify for and become entitled to Special Veterans Benefits (SVB). SSA uses Form SSA–2000–F6 to elicit the information necessary to determine entitlement to SVB. The respondents are individuals who are applying for SVB under Title VIII of the Social Security Act.

Note: This is a correction notice: SSA published this information collection with the incorrect burden information for this collection at 74 FR 18782, on April 24, 2009. We are correcting the error here.

Type of Request: Revision of an OMB-approved information collection.

Section No.	Number of respondents	Frequency of response	Average burden per response (mins.)	Estimated annual hour burden
§ 408.202(d); § 408.210; § 408.230(a); § 408.305; §§ 408.310-.315 (SSA–2000–F6)	100	1	20	33
§ 408.420(a), (b)	71	1	15	18
§§ 408.430 & .432	66	1	30	33
§ 408.435(a), (b), (c)	71	1	15	18
Totals	308			102

Dated: June 19, 2009.

John Biles,

Reports Clearance Officer, Center for Reports Clearance, Social Security Administration.

[FR Doc. E9–14916 Filed 6–24–09; 8:45 am]

BILLING CODE 4191–02–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Approval of Noise Compatibility Program 14 CFR Part 150; Detroit Metropolitan Wayne County Airport, Detroit, MI

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice.

SUMMARY: The Federal Aviation Administration (FAA) announces its findings on the noise compatibility program (NCP) submitted by Wayne County Airport Authority under the provisions of 49 U.S.C. (the Aviation Safety and Noise Abatement Act, hereinafter referred to as ''the Act'') and 14 CFR part 150. These findings are made in recognition of the description of Federal and nonfederal responsibilities in Senate Report No. 96–52 (1980). The Detroit Metropolitan Wayne County Airport noise exposure maps were determined by FAA to be in compliance with applicable requirements on March 7, 2006. Notice of this determination was published in the **Federal Register** on March 21, 2006, **Federal Register** volume 71, number 54, page 14282.

Under section 47504 of the Act, an airport operator who has previously submitted a noise exposure map may submit to the FAA a noise compatibility program which sets forth the measures taken or proposed by the airport operator for the reduction of existing non-compatible land uses and prevention of additional non-compatible land uses within the area covered by the noise exposure maps. The Act requires such programs to be developed in consultation with interested and affected parties including local communities, government agencies, airport users, and FAA personnel.

Each airport noise compatibility program developed in accordance with Federal Aviation Regulations (FAR) part 150 is a local program, not a Federal program. The FAA does not substitute its judgment for that of the airport proprietor with respect to which measures should be recommended for action. The FAA's approval or disapproval of FAR part 150 program recommendations is measured according to the standards expressed in part 150 and the Act and is limited to the following determinations:

a. The noise compatibility program was developed in accordance with the provisions and procedures of FAR part 150;

b. Program measures are reasonably consistent with achieving the goals of reducing existing non-compatible land uses around the airport and preventing the introduction of additional non-compatible land uses;

c. Program measures would not create an undue burden on interstate or foreign commerce, unjustly discriminate against types or classes of aeronautical uses, violate the terms of airport grant agreements, or intrude into areas preempted by the Federal Government; and

d. Program measures relating to the use of flight procedures can be implemented within the period covered by the program without derogating safety, adversely affecting the efficient use and management of the navigable airspace and air traffic control systems, or adversely affecting other powers and responsibilities of the Administrator prescribed by law.

The submitted program contained twenty proposed actions for noise mitigation on and off the airport, as applicable. The FAA completed its review and determined that the procedural and substantive requirements of the Act and FAR part 150 have been satisfied.

On June 1, 2009, the FAA approved the Detroit Metropolitan Wayne County Airport noise compatibility program. Fourteen of the twenty recommendations of the program were approved. Three recommendations are

related to revised flight procedures for noise abatement and require no action at this time. Three recommendations were disapproved at this time.

Specific limitations with respect to FAA's approval of an airport noise compatibility program are delineated in FAR part 150, section 150.5. Approval is not a determination concerning the acceptability of land uses under Federal, State, or local law. Approval does not by itself constitute an FAA implementing action. A request for Federal action or approval to implement specific noise compatibility measures may be required, and an FAA decision on the request may require an environmental assessment of the proposed action. Approval does not constitute a commitment by the FAA to financially assist in the implementation of the program nor a determination that all measures covered by the program are eligible for grant-in-aid funding from the FAA. Where Federal funding is sought, requests for project grants must be submitted to the FAA Detroit Airports District Office.

These determinations are set forth in detail in a Record of Approval signed by Deb Roth on June 1, 2009. The Record of Approval, as well as other evaluation materials and the documents comprising the submittal, are available for review at the FAA office listed above and at the administrative offices of the Detroit Metropolitan Wayne County Airport. The Record of Approval also will be available on-line at *http://www.faa.gov/airports_airtraffic/airports/environmental/airport_noise/part_150/states/*.

DATES: *Effective Date:* The effective date of the FAA's approval of the Detroit Metropolitan Wayne County Airport noise compatibility program is June 1, 2009.

FOR FURTHER INFORMATION CONTACT: Mr. Ernest Gubry, Detroit Airports District Office, 11677 South Wayne Road, Suite 107, Romulus, Michigan 48174, 734–229–2905. Documents reflecting this FAA action may be reviewed at this same location.

Dated: June 2, 2009.

Issued in Romulus, Michigan.

Matthew J. Thys,

Manager, Detroit Airports District Office, Great Lakes Region.

[FR Doc. E9–14986 Filed 6–24–09; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Approval of Noise Compatibility Program 14 CFR Part 150; General Mitchell International Airport, Milwaukee, WI

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice.

SUMMARY: The Federal Aviation Administration (FAA) announces its findings on the noise compatibility program (NCP) submitted by General Mitchell International Airport under the provisions of 49 U.S.C. (the Aviation Safety and Noise Abatement Act, hereinafter referred to as ''the Act'') and 14 CFR Part 150. These findings are made in recognition of the description of Federal and nonfederal responsibilities in Senate Report No. 96–52 (1980). The General Mitchell International Airport noise exposure maps were determined by FAA to be in compliance with applicable requirements on December 24, 2008. Notice of this determination was published in the **Federal Register** on January 15, 2009, **Federal Register** volume 74, number 10, page 2645.

Under section 47504 of the Act, an airport operator who has previously submitted a noise exposure map may submit to the FAA a noise compatibility program which sets forth the measures taken or proposed by the airport operator for the reduction of existing non-compatible land uses and prevention of additional non-compatible land uses within the area covered by the noise exposure maps. The Act requires such programs to be developed in consultation with interested and affected parties including local communities, government agencies, airport users, and FAA personnel.

Each airport noise compatibility program developed in accordance with Federal Aviation Regulations (FAR) Part 150 is a local program, not a Federal program. The FAA does not substitute its judgment for that of the airport proprietor with respect to which measures should be recommended for action. The FAA's approval or disapproval of FAR Part 150 program recommendations is measured according to the standards expressed in Part 150 and the Act and is limited to the following determinations:

a. The noise compatibility program was developed in accordance with the provisions and procedures of FAR Part 150;

b. Program measures are reasonably consistent with achieving the goals of reducing existing non-compatible land uses around the airport and preventing the introduction of additional non-compatible land uses;

c. Program measures would not create an undue burden on interstate or foreign commerce, unjustly discriminate against types or classes of aeronautical uses, violate the terms of airport grant agreements, or intrude into areas preempted by the Federal Government; and

d. Program measures relating to the use of flight procedures can be implemented within the period covered by the program without derogating safety, adversely affecting the efficient use and management of the navigable airspace and air traffic control systems, or adversely affecting other powers and responsibilities of the Administrator prescribed by law.

The submitted program contained sixteen proposed actions for noise mitigation on and off the airport, as applicable. The FAA completed its review and determined that the procedural and substantive requirements of the Act and FAR Part 150 have been satisfied.

On June 4, 2009, the FAA approved the General Mitchell International Airport noise compatibility program. Ten of the sixteen recommendations of the program were approved. Six recommendations were disapproved at this time.

Specific limitations with respect to FAA's approval of an airport noise compatibility program are delineated in FAR Part 150, section 150.5. Approval is not a determination concerning the acceptability of land uses under Federal, state, or local law. Approval does not by itself constitute an FAA implementing action. A request for Federal action or approval to implement specific noise compatibility measures may be required, and an FAA decision on the request may require an environmental assessment of the proposed action. Approval does not constitute a commitment by the FAA to financially assist in the implementation of the program nor a determination that all measures covered by the program are eligible for grant-in-aid funding from the FAA. Where federal funding is sought, requests for project grants must be submitted to the FAA Minneapolis Airports District Office.

These determinations are set forth in detail in a Record of Approval signed by Deb Roth on June 4, 2009. The Record of Approval, as well as other evaluation materials and the documents comprising the submittal, are available for review at the FAA office listed above and at the administrative offices of the

General Mitchell International Airport. The Record of Approval also will be available on-line at *http://www.faa.gov/airports_airtraffic/airports/environmental/airport_noise/part_150/states/*.

DATES: *Effective Date:* The effective date of the FAA's approval of the General Mitchell International Airport noise compatibility program is June 4, 2009.

FOR FURTHER INFORMATION CONTACT: Mr. Glen Orcutt, Federal Aviation Administration, Minneapolis Airport District Office, 6020 28th Ave., South, Minneapolis, MN 55450, phone number (612) 713–4354. Documents reflecting this FAA action may be reviewed at this same location.

Dated: June 9, 2009.

Issued in Minneapolis, Minnesota.

Jesse Carriger,

Manager, Minneapolis Airports District Office, FAA Great Lakes Region.

[FR Doc. E9–14988 Filed 6–24–09; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Eighth Plenary Meeting, NextGen Mid-Term Implementation Task Force

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of NextGen Mid-Term Implementation Task Force meeting.

SUMMARY: The FAA is issuing this notice to advise the public of a meeting of the NextGen Mid-Term Implementation Task Force.

DATES: The meeting will be held August 20, 2009, starting at 9 a.m. to 12 p.m. Arrive in FAA Lobby at 8:30 a.m. for visitor check in.

ADDRESSES: FAA Auditorium, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591.

FOR FURTHER INFORMATION CONTACT: RTCA Secretariat, 1828 L Street, NW., Suite 850, Washington, DC 20036; telephone (202) 833–9339; fax (202) 833–9434; Web site *http://www.rtca.org.*

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., Appendix 2), notice is hereby given for a NextGen Mid-Term Implementation Task Force meeting. The agenda will include:

- Opening Plenary (Welcome and Introductions).
- Work Group and Subgroup Status Reports and Planned Activities.
- Review and Discuss Task Force Recommendations.
- Closing Plenary (Other Business, Document Production, Date and Place of Next Meeting, Adjourn).

Attendance is open to the interested public but limited to space availability. With the approval of the chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on June 18, 2009.

Francisco Estrada C.,

RTCA Advisory Committee.

[FR Doc. E9–14987 Filed 6–24–09; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2009–0150]

Medical Review Board (MRB) Public Meeting

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), (DOT).

ACTION: Notice of correction.

SUMMARY: FMCSA notes two corrections on the **Federal Register** notice announcing the Medical Review Board meeting scheduled for July 1, 2009 from 9 a.m.–4:20 p.m. at the U.S. Department of Transportation.

FOR FURTHER INFORMATION CONTACT: Dr. Mary D. Gunnels, Director, Medical Programs, 202–366–4001.

SUPPLEMENTARY INFORMATION:

On June 12, 2009, FMCSA published a Notice in the **Federal Register** announcing a public meeting of the Medical Review Board to be held on July 1, 2009 (74 FR 28093). The notice included two incorrect Web sites. The first one is *http://Docketinfo.dot.gov;* the correct Web site is *http://www.regulations.gov.* The second error was *http://www.fmcsa.dot.gov/mrb;* the correct Web site is *http://mrb.fmcsa.dot.gov.*

Issued on: June 18, 2009.

Larry W. Minor,

Associate Administrator for Policy and Program Development.

[FR Doc. E9–14917 Filed 6–24–09; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. MC–F–21034]

Clean Truck Coalition, LLC, et al.—Pooling Application

AGENCY: Surface Transportation Board, DOT.

ACTION: Notice of filing of application.

SUMMARY: By application filed on June 3, 2009, certain participating motor carriers (Applicants) in the Clean Truck Coalition, LLC (CTC), a California limited liability corporation, jointly request approval of a pooling agreement under 49 U.S.C. 14302 and 49 CFR 1184.1, *et seq.* Applicants propose to pool and/or divide specialized clean truck equipment and corresponding traffic, as necessary, and to use collective purchasing options through a central buying mechanism for fuel, equipment, and materials to manage operations costs. As a result of the agreement, Applicants would be part of the Clean Trucks Program (program), an environmental program aimed at reducing air pollution caused by the trucks used to transport cargo to and from the harbor facilities of the Ports of Los Angeles and Long Beach, CA (the Ports). The program is sponsored through the San Pedro Bay Ports Clean Air Action Plan (the Plan),[1] and provides grants and financial incentives that allow selected trucking companies to replace older, high-polluting trucks with newer, cleaner trucks. The Plan defines the relevant market as shipments transported to and from the Ports using clean trucks. The outbound deliveries generally would be to designated rail and truck container yards, nearby distribution facilities, and other regional service points. Inbound shipments would represent traffic moving in the reverse direction. Applicants would continue to conduct their own transportation operations serving the Ports and augment their present service from a separate to a joint regionalized service.

DATES: Any comments on the application must be filed by July 27, 2009.

ADDRESSES: Send an original plus 10 copies of any comments, referring to STB Docket No. MC–F–21034, to the Surface Transportation Board, 395 E Street, SW., Washington, DC 20423–0001. In addition, send one copy of any

[1] According to Applicants, the Plan was implemented by the City of Los Angeles Board of Harbor Commissioners at a meeting held on October 23, 2008.

comments to: (1) William D. Taylor, Esq., Hanson Bridgett LLP, 500 Capitol Mall, Suite 1500, Sacramento, CA 95814; and (2) James A. Calderwood, Esq., Zuckert, Scoutt & Rasenberger, L.L.P., 888 Seventeenth Street, NW., Suite 700, Washington, DC 20006.

FOR FURTHER INFORMATION CONTACT: Melissa Ziembicki, (202) 245–0386. Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at 1–800–877–8339.

SUPPLEMENTARY INFORMATION: Under 49 U.S.C. 11322, the Board may approve pooling agreements that are voluntarily entered into by carriers, provided that the pooling or division of traffic, services, or earnings will be in the interest of better service to the public or of economy of operation and will not unreasonably restrain competition. The proposed pooling agreement would allow Applicants to continue to conduct their own transportation operations and serve the Ports with related revenues within the market area. Applicants contend that the agreement would allow them to maximize their ability to purchase jointly materials and equipment specialized for clean trucks, to level the collective buying power, and to free Applicants' resources for further expansion of the overall program. The Plan requires Applicants to meet and satisfy stringent clean truck requirements while serving the Ports. Thus, Applicants state that the agreement would benefit the public because participation in the program would result in improvements in the air quality and a reduction in emissions output.

According to Applicants, the Plan defines the extent of eligible carriers and, therefore, Applicants' overt actions would not determine the competitive landscape. Applicants note that the common denominator among Applicants is their sanction from the Ports under the program, and that there are other similarly sanctioned carriers who are not part of the proposed pooling agreement. Applicants state that they would be willing to consider, with Board approval, additional qualified participants that would be capable of providing the services and conducting the operations necessary to meet the common operating criteria.

Applicants state that, collectively, they represent ten percent of the overall monthly truck activity to and from the Ports' harbor facilities. Specifically, Applicants are: Green Fleet Systems, LLC, a Delaware limited liability company; California Intermodal Associates, Inc., a California corporation; Fox Transportation, Inc., a California corporation; Golden State Express, Incorporated, a California corporation; Harbor Division, Inc., a California corporation; Overseas Freight Inc., a California corporation; Pacific 9 Transportation, Inc., a California corporation; Progressive Transportation Services, Inc., a California corporation; Southern Counties Express, Inc., a California corporation; and Total Transportation Services, Inc., a California corporation. Together, Applicants are members of CTC, with an equal ownership interest in the entity. CTC would operate as a joint venture within a limited liability company structure.

Decided: June 19, 2009.

By the Board, Joseph H. Dettmar, Acting Director, Office of Proceedings.

Jeffrey Herzig,

Clearance Clerk.

[FR Doc. E9–14892 Filed 6–24–09; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

June 22, 2009.

The Department of the Treasury will submit the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13 on or after the date of publication of this notice. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 11000, 1750 Pennsylvania Avenue, NW., Washington, DC 20220.

DATES: Written comments should be received on or before July 27, 2009 to be assured of consideration.

Financial Management Service (FMS)

OMB Number: 1510–0013.

Type of Review: Revision.

Form: FMS 2208.

Title: States Where Licensed for Surety.

Description: Information collected from insurance companies provides Federal bond approving officers with a listing of states, by company, in which they are licensed to write Federal bonds. This information appears in the Treasury's Circular 570.

Respondents: Businesses or other for-profits.

Estimated Total Burden Hours: 268 hours.

Clearance Officer: Wesley Powe (202) 874–7662. Financial Management Service, Room 135, 3700 East West Highway, Hyattsville, MD 20782.

OMB Reviewer: OIRA Desk Officer, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503. *oira_submission@omb.eop.gov.*

Robert Dahl,

Treasury PRA, Clearance Officer.

[FR Doc. E9–14998 Filed 6–24–09; 8:45 am]

BILLING CODE 4810–35–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

June 22, 2009.

The Department of the Treasury is planning to submit the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 11020, 1750 Pennsylvania Avenue, NW., Washington, DC 20220.

DATES: Written comments should be received on or before August 24, 2009 to be assured of consideration.

Office of Foreign Assets Control

OMB Number: 1505–0170.

Type of Review: Extension.

Title: Form for OFAC License Applications to Unblock Funds Transfers.

Form: TD–F–90–22.54.

Description: Assets blocked pursuant to sanctions administered by Office of Foreign Assets Control (OFAC) may be released only through a specific license issued by OFAC. Since February 2000, use of this form to apply for the unblocking of funds transfers has been mandatory pursuant to 31 CFR 501.801(b)(2). Use of this form greatly facilitates and speeds applicants' submissions and OFAC's processing.

Respondents: Individuals or households.

Estimated Total Reporting Burden: 2,500 hours.

Clearance Officer: Stephanie Petersen, (202) 622–0596, Treasury Annex, Room 2141, Washington, DC 20220.

OMB Reviewer: OIRA Desk Officer, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503, *oira_submission@omb.eop.gov.*

Robert Dahl,

Treasury PRA Clearance Officer.

[FR Doc. E9–14999 Filed 6–24–09; 8:45 am]

BILLING CODE 4810–25–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Notice 2009–XX (NOT–151370–08)

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Notice 2009–XX, Credit for Carbon Dioxide Sequestration under Section 45Q.

DATES: Written comments should be received on or before August 24, 2009 to be assured of consideration.

ADDRESSES: Direct all written comments to R. Joseph Durbala, Internal Revenue Service, room 6129, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of notice should be directed to Evelyn J. Mack, at (202) 622–7381, or at Internal Revenue Service, room 6129, 1111 Constitution Avenue, NW., Washington, DC 20224, or through the Internet, at *Evelyn.J.Mack@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Credit for Carbon Dioxide Sequestration under Section 45Q.

OMB Number: 1545–XXXX.

Notice Number: Notice 2009–XX (NOT–151370–08).

Abstract: The proposed notice sets forth interim guidance, pending the issuance of regulations, relating to the credit for carbon dioxide sequestration (CO_2 sequestration credit) under § 45Q of the Internal Revenue Code.

Current Actions: This is a new collection. There are no changes being made to the notice at this time.

Type of Review: Approval of a new collection.

Affected Public: Business and for-profit.

Estimated Number of Respondents: 30.

Estimated Average Time per Respondent: 6 hrs.

Estimated Total Annual Burden Hours: 180 hrs.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: June 18, 2009.

Allan Hopkins,

IRS Reports Clearance Officer.

[FR Doc. E9–14929 Filed 6–24–09; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

FEDERAL RESERVE SYSTEM

FEDERAL DEPOSIT INSURANCE CORPORATION

Proposed Agency Information Collection Activities; Comment Request

AGENCIES: Office of the Comptroller of the Currency (OCC), Treasury; Board of Governors of the Federal Reserve System (Board); and Federal Deposit Insurance Corporation (FDIC).

ACTION: Joint notice and request for comment.

SUMMARY: In accordance with the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35), the OCC, the Board, and the FDIC (collectively, the agencies) may not conduct or sponsor, and the respondent is not required to respond to, an information collection unless it displays a currently valid Office of Management and Budget (OMB) control number. The Federal Financial Institutions Examination Council (FFIEC), of which the agencies are members, has approved the agencies' publication for public comment of a proposal to extend, without revision, the Foreign Branch Report of Condition (FFIEC 030 and FFIEC 030S), which is a currently approved information collection for each agency. At the end of the comment period, the comments and recommendations received will be analyzed to determine the extent to which the FFIEC should modify the report. The agencies will then submit the report to OMB for review and approval.

DATES: Comments must be submitted on or before August 24, 2009.

ADDRESSES: Interested parties are invited to submit written comments to any or all of the agencies. All comments, which should refer to the OMB control number, will be shared among the agencies.

OCC: Communications Division, Office of the Comptroller of the Currency, Public Information Room, Mailstop 2–3, Attention: 1557–0099, 250 E Street, SW., Washington, DC 20219. In addition, comments may be sent by fax to 202–874–5274, or by electronic mail to *regs.comments@occ.treas.gov.* You may personally inspect and photocopy the comments at the OCC, 250 E Street, SW., Washington, DC 20219. For

security reasons, the OCC requires that visitors make an appointment to inspect comments. You may do so by calling (202) 874–4700. Upon arrival, visitors will be required to present valid government-issued photo identification and submit to security screening in order to inspect and photocopy comments.

Board: You may submit comments, identified by FFIEC 030 or FFIEC 030S, by any of the following methods:

- *Agency Web Site: http://www.federalreserve.gov.* Follow the instructions for submitting comments on *http://www.federalreserve.gov/generalinfo/foia/ProposedRegs.cfm.*
- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *E-mail: regs.comments@federalreserve.gov.* Include the OMB control number in the subject line of the message.
- *Fax:* 202–452–3819 or 202–452–3102.
- *Mail:* Jennifer J. Johnson, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, NW., Washington, DC 20551.

All public comments are available from the Board's Web site at *http://www.federalreserve.gov/generalinfo/foia/ProposedRegs.cfm* as submitted, unless modified for technical reasons. Accordingly, your comments will not be edited to remove any identifying or contact information. Public comments may also be viewed electronically or in paper in Room MP–500 of the Board's Martin Building (20th and C Streets, NW.) between 9 a.m. and 5 p.m. on weekdays.

FDIC: You may submit comments, which should refer to ''Foreign Branch Report of Condition, 3064–0011,'' by any of the following methods:

- *Agency Web Site: http://www.FDIC.gov/regulations/laws/federal/notices.html.*
- *E-mail: comments@FDIC.gov.* Include ''Foreign Branch Report of Condition, 3064–0011'' in the subject line of the message.
- *Mail:* Herbert J. Messite (202–898–6834), Counsel, Attn: Comments, Room F–1052, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, DC 20429.
- *Hand Delivery:* Comments may be hand delivered to the guard station at the rear of the 550 17th Street Building (located on F Street) on business days between 7 a.m. and 5 p.m.

Public Inspection: All comments received will be posted without change to *http://www.fdic.gov/regulations/laws/federal/notices/html* including any personal information provided. Comments may be inspected at the FDIC Public Information Center, Room E–1002, 3502 North Fairfax Drive, Arlington, VA 22226, between 9 a.m. and 5 p.m. on business days.

Additionally, commenters may send a copy of their comments to the OMB desk officer for the agencies by mail to the Office of Information and Regulatory Affairs, U.S. Office of Management and Budget, New Executive Office Building, Room 10235, 725 17th Street, NW., Washington, DC 20503 or by fax to 202–395–6974.

FOR FURTHER INFORMATION CONTACT: For further information or a copy of the collection, please contact any of the agency clearance officers whose names appear below.

OCC: Mary H. Gottlieb, OCC Clearance Officer, 202–874–5090, Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency, 250 E Street, SW., Washington, DC 20219.

Board: Cynthia Ayouch, Federal Reserve Board Acting Clearance Officer, 202–452–3829, Division of Research and Statistics, Board of Governors of the Federal Reserve System, 20th and C Streets, NW., Washington, DC 20551. Telecommunications Device for the Deaf (TDD) users may call 202–263–4869.

FDIC: Herbert J. Messite, Counsel, 202–898–6834, Legal Division, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, DC 20429.

SUPPLEMENTARY INFORMATION:

Proposal to Extend for Three Years, Without Revision, the Following Currently Approved Collection of Information

Report Title: Foreign Branch Report of Condition.

Form Numbers: FFIEC 030 and FFIEC 030S.

Frequency of Response: Annually, and quarterly for significant branches.

Affected Public: Business or other for profit.

OCC:

OMB Number: 1557–0099.

Estimated Number of Respondents: 101 annual branch respondents (FFIEC 030). 289 quarterly branch respondents (FFIEC 030). 30 annual branch respondents (FFIEC 030S).

Estimated Average Time per Response: 3.4 burden hours (FFIEC 030). 0.5 burden hours (FFIEC 030S).

Estimated Total Annual Burden: 4,288 burden hours.

Board:

OMB Number: 7100–0071.

Estimated Number of Respondents: 23 annual branch respondents (FFIEC 030). 20 quarterly branch respondents (FFIEC 030). 14 annual branch respondents (FFIEC 030S).

Estimated Average Time per Response: 3.4 burden hours (FFIEC 030). 0.5 burden hours (FFIEC 030S).

Estimated Total Annual Burden: 357 burden hours.

FDIC:

OMB Number: 3064–0011.

Estimated Number of Respondents: 7 annual respondents (FFIEC 030). 3 quarterly respondents (FFIEC 030). 9 annual respondents (FFIEC 030S).

Estimated Average Time per Response: 3.4 burden hours (FFIEC 030). 0.5 burden hours (FFIEC 030S).

Estimated Total Annual Burden: 70 burden hours.

General Description of Reports

This information collection is mandatory: 12 U.S.C. 321, 324, and 602 (Board); 12 U.S.C. 602 (OCC); and 12 U.S.C. 1828 (FDIC). This information collection is given confidential treatment (5 U.S.C. 552(b)(8)).

Abstract

The FFIEC 030 contains asset and liability information for foreign branches of insured U.S. commercial banks and state-chartered savings banks and is required for regulatory and supervisory purposes. The information is used to analyze the foreign operations of U.S. banks. All foreign branches of U.S. banks regardless of charter type file this report with the appropriate Federal Reserve District Bank. The Federal Reserve collects this information on behalf of the U.S. bank's primary federal bank regulatory agency. The FFIEC 030S contains five data items that branches with total assets between $50 million and $250 million file on an annual basis in lieu of the FFIEC 030 reporting form. No changes are proposed to the FFIEC 030 or FFIEC 030S reporting forms or instructions.

Request for Comment

Comments are invited on:

a. Whether the information collection is necessary for the proper performance of the agencies' functions, including whether the information has practical utility;

b. The accuracy of the agencies' estimate of the burden of the information collection, 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 information collections on respondents, including through the use of automated

collection techniques or other forms of information technology; and

e. Estimates of capital or start up costs and costs of operation, maintenance, and purchase of services to provide the requested information.

Comments submitted in response to this notice will be shared among the agencies. All comments will become a matter of public record. Written comments should address the accuracy of the burden estimates and ways to minimize burden including the use of automated collection techniques or the use of other forms of information technology as well as other relevant aspects of the information collection request.

Dated: June 18, 2009.

Michele Meyer,

Assistant Director, Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency.

Board of Governors of the Federal Reserve System, June 19, 2009.

Jennifer J. Johnson,

Secretary of the Board.

Dated at Washington, DC, this 16th day of June 2009.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. E9–15001 Filed 6–24–09; 8:45 am]

BILLING CODE 4810–33–P; 6210–01–P; 6714–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Notice of renewal charter and filing letters

AGENCY: Internal Revenue Service (IRS); Tax Exempt and Government Entities Division.

ACTION: Notice of renewal charter and filing letters.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92–462, a renewal charter has been filed for the IRS Advisory Committee on Tax Exempt and Government Entities (ACT). The renewal charter was filed on June 16, 2009, with the Committee on Finance of the United States Senate, the Committee on Ways and Means of the U.S. House of Representatives, and the Library of Congress. The renewal charter and copies of these filing letters are attached.

SUPPLEMENTARY INFORMATION: The Advisory Committee on Tax Exempt and Government Entities (ACT), governed by the Federal Advisory Committee Act, Public Law 92–463, is an organized public forum for discussion of relevant employee plans, exempt organizations, tax-exempt bonds, and Federal, State, local, and Indian tribal government issues between officials of the IRS and representatives of the above communities. The ACT also enables the IRS to receive regular input with respect to the development and implementation of IRS policy concerning these communities. ACT members present the interested public's observations about current or proposed IRS policies, programs, and procedures, as well as suggest improvements.

Dated: June 18, 2009.

Steven J. Pyrek,

Designated Federal Official, Tax Exempt and Government Entities Division, Internal Revenue Service.

[FR Doc. E9–14931 Filed 6–24–09; 8:45 am]

BILLING CODE 4830–01–P

TENNESSEE VALLEY AUTHORITY

Energy Efficiency and Smart Grid Standards

AGENCY: Tennessee Valley Authority.

ACTION: Notice of consideration of energy efficiency and Smart Grid standards

SUMMARY: By a Notice in the **Federal Register** (73 FR 76736, December 16, 2008), the Tennessee Valley Authority (TVA) initially requested comments on certain standards that TVA is considering adopting for itself and the distributors of TVA power pertaining to certain energy efficiency and Smart Grid standards. The standards being considered are Integrated Resource Planning, Rate Design Modifications to Promote Energy Efficiency Investments, Consideration of Smart Grid Investments, and Smart Grid Information listed in section 111(d) of the Public Utility Regulatory Policies Act of 1978 (Pub. L. 95–617) as amended by the Energy Independence and Security Act of 2007 (Pub. L. 110–140). TVA staff has developed a report that reviews each standard and makes a preliminary recommendation with respect to each standard. TVA has posted the report on the TVA Web site (*http://www.tva.com/purpa*). The standards will be considered on the basis of their effect on conservation of energy, efficient use of facilities and resources, equity among electric consumers, and the objectives of the Tennessee Valley Authority Act. As part of the process of considering the standards, comments are requested from the public on the TVA staff report. TVA is also extending the comment period on the standards themselves, which are set out below.

DATES: All comments on the TVA staff report and these standards must be received by July 27, 2009. Written comments may be mailed to: Veenita Bisaria, Tennessee Valley Authority, 400 W. Summit Hill Drive, WT3D–K, Knoxville, TN 37902, (865) 632–3939. Comments may also be submitted via the Web, at *http://www.tva.com/purpa.*

FOR FURTHER INFORMATION CONTACT: Veenita Bisaria, Tennessee Valley Authority (contact information above).

SUPPLEMENTARY INFORMATION: On the standards being considered, the Public Utility Regulatory Policies Act of 1978 (Pub. L. 95–617) as amended by the Energy Independence and Security Act of 2007 (Pub. L. 110–140) requires that TVA consider these standards. Accordingly, data, views, and comments are requested from the public on the four standards set out below, as well as on the TVA staff report. Comments on variations in any of the standards, as well as views for or against their adoption are welcome. These standards are being presented in order to obtain the public's views on the need and desirability of such standards. Determinations on the appropriateness of the standards will be made by the TVA Board of Directors for TVA and the distributors of TVA power.

Standards: The standards upon which comments are requested about which a determination will be made are:

(1) *Integrated Resource Planning.*—

Each electric utility shall—

(A) Integrate energy efficiency resources into utility, State, and regional plans; and

(B) Adopt policies establishing cost-effective energy efficiency as a priority resource.

(2) *Rate Design Modifications to Promote Energy Efficiency Investments.*—

(A) In General.—The rates allowed to be charged by any electric utility shall—

(i) Align utility incentives with the delivery of cost-effective energy efficiency; and

(ii) Promote energy efficiency investments.

(B) Policy Options.—In complying with subparagraph (A), each State regulatory authority and each non-regulated utility shall consider—

(i) Removing the throughput incentive and other regulatory and management disincentives to energy efficiency;

(ii) Providing utility incentives for the successful management of energy efficiency programs;

(iii) Including the impact on adoption of energy efficiency as one of the goals

of retail rate design, recognizing that energy efficiency must be balanced with other objectives;

(iv) Adopting rate designs that encourage energy efficiency for each customer class;

(v) Allowing timely recovery of energy efficiency-related costs; and

(vi) Offering home energy audits, offering demand response programs, publicizing the financial and environmental benefits associated with making home energy efficiency improvements, and educating homeowners about all existing Federal and State incentives, including the availability of low-cost loans, that make energy efficiency improvements more affordable.

(3) *Consideration of Smart Grid Investments.*—

(A) In General.—Each State shall consider requiring that, prior to undertaking investments in nonadvanced grid technologies, an electric utility of the State demonstrate to the State that the electric utility considered an investment in a qualified smart grid system based on appropriate factors, including—

(i) Total costs;

(ii) Cost-effectiveness;

(iii) Improved reliability;

(iv) Security;

(v) System performance; and

(vi) Societal benefit.

(B) Rate Recovery.—Each State shall consider authorizing each electric utility of the State to recover from ratepayers any capital, operating expenditure, or other costs of the electric utility relating to the deployment of a qualified smart grid system, including a reasonable rate of return on the capital expenditures of the electric utility for the deployment of the qualified smart grid system.

(C) Obsolete Equipment.—Each State shall consider authorizing any electric utility or other party of the State to deploy a qualified smart grid system to recover in a timely manner the remaining book-value costs of any equipment rendered obsolete by the deployment of the qualified smart grid system, based on the remaining depreciable life of the obsolete equipment.

(4) *Smart Grid Information.*—

(A) Standard.—All electricity purchasers shall be provided direct access, in written or electronic machine-readable form as appropriate, to information from their electricity provider as provided in subparagraph (B).

(B) Information.—Information provided under this section, to the extent practicable, shall include:

(i) Prices.—Purchasers and other interested persons shall be provided with information on (I) time-based electricity prices in the wholesale electricity market; and (II) time-based electricity retail prices or rates that are available to the purchasers.

(ii) Usage.—Purchasers shall be provided with the number of electricity units, expressed in kwh, purchased by them.

(iii) Intervals and projections.—Updates of information on prices and usage shall be offered on not less than a daily basis, shall include hourly price and use information, where available, and shall include a day-ahead projection of such price information to the extent available.

(iv) Sources.—Purchasers and other interested persons shall be provided annually with written information on the sources of the power provided by the utility, to the extent it can be determined, by type of generation, including greenhouse gas emissions associated with each type of generation, for intervals during which such information is available on a cost-effective basis.

(C) Access.—Purchasers shall be able to access their own information at any time through the Internet and on other means of communication elected by that utility for Smart Grid applications. Other interested persons shall be able to access information not specific to any purchaser through the Internet. Information specific to any purchaser shall be provided solely to that purchaser.

Procedures: Written data, views, and comments on the standards and the TVA staff report are requested from the public. All material relating to the standards or TVA staff report must be received by 5 p.m. EST on July 27, 2009. All materials received by TVA before this designated time will be considered by TVA. The TVA staff report, and comments on the report concerning the standards, will also be made part of the official record. In order to assist interested consumers in preparing written data, views, and comments for the record, TVA operates a Web site (*http://www.tva.com/purpa*) on which interested parties can be informed about the standards set out in this notice and on which interested parties can access the TVA staff report and submit comments and materials on the standards or the report. The official record will consist of the TVA staff report and all comments and materials submitted electronically and all written materials submitted within the time set forth above. A summary of the record will be prepared by TVA staff and will be transmitted to the TVA Board of Directors along with the complete record. The record will be used by the Board in making the determinations required by section 111(d) of the Public Utility Regulatory Policies Act of 1978 (Pub. L. 95–617) as amended by the Energy Independence and Security Act of 2007 (Pub. L. 110–140) and in fulfilling its obligation under the Tennessee Valley Authority Act. Individual copies of the record will be available to the public at cost of reproduction. Copies will also be kept on file for public inspection at the following locations: Tennessee Valley Authority, 400 W. Summit Hill Drive, WT3D–K, Knoxville, TN 37902, and on the Web at *http://www.tva.com/purpa*.

Dated: June 19, 2009.

Maureen H. Dunn,

Executive Vice President and General Counsel.

[FR Doc. E9–14990 Filed 6–24–09; 8:45 am]

BILLING CODE 8120–08–P

DEPARTMENT OF VETERANS AFFAIRS

Privacy Act of 1974; System of Records

AGENCY: Department of Veterans Affairs (VA).

ACTION: Notice of amendment to system of records.

SUMMARY: As required by the Privacy Act of 1974 (5 U.S.C. 552a(e)(4)), notice is hereby given that the Department of Veterans Affairs (VA) is amending the system of records entitled ''Administrator's Official Correspondence Records-VA'' (75VA001B),'' as set forth in the **Federal Register** on August 29, 1989. VA is amending the system by updating its name, and revising the routine uses of records maintained in the system, including categories of users and the purposes of such uses. VA is republishing the system notice in its entirety.

DATES: Comments on the amendment of this system of records must be received no later than July 27, 2009. If no public comment is received, the amended system will become effective July 27, 2009.

ADDRESSES: Written comments may be submitted through *http://www.Regulations.gov*; by mail or hand-delivery to the Director, Regulations Management (02REG), Department of Veterans Affairs, 810 Vermont Avenue, NW., Room 1068, Washington, DC 20420; or by fax to (202) 273–9026. Comments should indicate that they are submitted in response to the

amendment of ''Department of Veterans Affairs Secretary's Official Correspondence Records-VA'' (75VA001B). Copies of comments received will be available for public inspection in the Office of Regulation Policy and Management, Room 1063B, between the hours of 8 a.m. and 4:30 p.m. Monday through Friday (except holidays). Please call (202) 461–4902 for an appointment. In addition, during the comment period, comments may be viewed online through the Federal Docket Management System (FDMS) at *http://www.Regulations.gov*.

FOR FURTHER INFORMATION CONTACT: Gemma Button, Deputy Executive Secretary, Office of the Executive Secretary, Office of the Secretary, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420; (202) 461–4869.

SUPPLEMENTARY INFORMATION: A Notice to amend this System of Records was published in the **Federal Register** of August 29, 1989 (75VA001B).

I. Description of the System of Records

This System of Records, now known as ''Department of Veterans Affairs Secretary's Official Correspondence Records-VA,'' is the Secretary's Official Correspondence Records, which include the name, address and other identifying information pertaining to the correspondent, as well as background information concerning matters which the correspondent has brought to the Department's attention. The System of Records also contains documents generated within VA which may contain the names, addresses and other identifying information of individuals who conduct business with VA, as well as material received, background information compiled and/or response sent.

II. Proposed Routine Use Disclosures of Data in the System

VA is rewriting existing routine uses in the System using plain language. The use of plain language in these routine uses does not, and is not intended to, change the disclosures authorized under these routine uses. VA is amending, deleting, rewriting and reorganizing the order of the routine uses in this system of records, as well as adding new routine uses. Accordingly, the following changes are made to the current routine uses and are incorporated in the amended system of records notice.

Current routine use number 1 is amended to more accurately reflect VA's authorization to disclose individually-identifiable information to Members of Congress, or a staff person acting for the Member, when the Member or staff person requests the records on behalf of and at the written request of the individual. This amendment clarifies that a written request is required.

Current routine use number 2 is deleted in its entirety and the information contained therein is clarified with the addition of routine use number 6.

New routine uses number 2 through number 7 are added. New routine use number 2 addresses disclosure to the National Archives and Records Administration in records management inspections conducted under authority of title 44 U.S.C.

New routine use number 3 addresses disclosure of information in legal proceedings and to the Department of Justice. In determining whether to disclose records under this routine use, VA will comply with the guidance promulgated by the Office of Management and Budget (OMB) in a May 24, 1985, memorandum entitled: ''Privacy Act Guidance—Update'' currently posted at: *http://www.whitehouse.gov/omb/inforeg/guidance1985.pdf*.

New routine use number 4 addresses the disclosure of relevant information to individuals, organizations, private or public agencies, or other entities with which VA has a contract or agreement.

New routine use number 5 addresses that VA may disclose information in the system, except the names and home addresses of veterans and their dependents, that is relevant to a suspected or reasonably imminent violation of the law. VA may also disclose the names and addresses of veterans and their dependents to a Federal agency charged with the responsibility of investigating or prosecuting civil, criminal, or regulatory violations of law.

New routine use number 6 addresses when VA may disclose to other Federal agencies to assist such agencies in preventing and detecting possible fraud or abuse by individuals in their operations and programs.

New routine use number 7 addresses the circumstances, and to whom, VA may disclose records to respond to, and minimize possible harm to, individuals as a result of a data breach. This routine use is promulgated to meet VA's statutory duties under 38 U.S.C. 5724 and The Privacy Act, 5 U.S.C. 552a, as amended.

III. Compatibility of the Proposed Routine Uses

Release of information from these records, pursuant to routine uses, will be made only in accordance with the Privacy Act of 1974. The Privacy Act of 1974 permits agencies to disclose information about individuals, without their consent, for a routine use when the information will be used for a purpose that is compatible with the purpose for which the information was collected. VA has determined that the disclosure of information for the above-stated purposes in the proposed amendment to routine uses is a proper and necessary use of the information collected by the electronic document tracking system, and is compatible with the purpose for which VA collected the information.

The notice of intent to publish an advance copy of the system notice has been sent to the appropriate Congressional committees and to the Director of the Office of Management and Budget (OMB) as required by 5 U.S.C. 552a(r) (Privacy Act) and guidelines issued by OMB (65 FR 77677), December 12, 2000.

Approved: June 9, 2009.

John R. Gingrich,

Chief of Staff, Department of Veterans Affairs.

System Number

75VA001B

SYSTEM NAME:

''Department of Veterans Affairs Secretary's Official Correspondence Records-VA''

SYSTEM LOCATION:

Paper records are maintained in the Office of the Executive Secretary (001B), Office of the Secretary, Department of Veterans Affairs (VA) Central Office (VACO), 810 Vermont Avenue, NW., Washington, DC 20420. Copies of some documents may be located in other offices throughout VACO and occasionally at field facilities, *i.e.* Veterans Health Administration VA medical centers and Veterans Integrated Service Network offices; Veterans Benefits Administration regional offices and Area Offices; National Cemetery Administration national cemeteries and Memorial Service Network offices; etc. Address locations for VA field facilities are listed in Appendix 1 of the biennial publication of the VA Privacy Act Issuances.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who voluntarily provide personal contact information when submitting correspondence or other documents to the Department, including, but not limited to: Members of Congress and their staff, officials and representatives of other Federal agencies, State, local and tribal governments, foreign governments, and

veterans service organizations; representatives of private or commercial entities; veterans and other VA beneficiaries; VA employees; and other individuals who correspond with the VA Secretary and Deputy Secretary and other VA officials.

CATEGORIES OF RECORDS IN THE SYSTEM:

Full name, postal address, e-mail address, phone and fax numbers of individuals corresponding with the Department, the name of the organization or individual being represented, as well as supporting documents. Information provided may include personal information.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Title 38, United States Code, section 501.

PURPOSE:

To permit VA to identify individuals and/or organizations who have submitted correspondence or documents to VA. The System of Records also contains documents generated within VA which may contain the names, addresses and other identifying information of individuals who conduct business with VA.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USERS:

1. The record of an individual who is covered by a system of records may be disclosed to a Member of Congress, or a staff person acting for the Member, when the Member or staff person requests the records on behalf of and at the written request of the individual.

2. Disclosure may be made to the National Archives and Records Administration in records management inspections conducted under authority of title 44 U.S.C.

3. VA may disclose information from this system of records to the Department of Justice (DoJ), either on VA's initiative or in response to DoJ's request for the information, after either VA or DoJ determines that such information is relevant to DoJ's representation of the United States or any of its components in legal proceedings before a court or adjudicative body, provided that, in each case, the agency also determines prior to disclosure that release of the records to the DoJ is a use of the information contained in the records that is compatible with the purpose for which VA collected the records. VA, on its own initiative, may disclose records in this system of records in legal proceedings before a court or administrative body after determining that the disclosure of the records to the court or administrative body is a use of the information contained in the records that is compatible with the purpose for which VA collected the records.

4. Disclosure of relevant information may be made to individuals, organizations, private or public agencies, or other entities with whom VA has a contract or agreement or where there is a subcontract to perform such services as VA may deem practicable for the purposes of laws administered by VA, in order for the contractor or subcontractor to perform the services of the contract or agreement.

5. VA may disclose on its own initiative any information in the system, except the names and home addresses of veterans and their dependents, that is relevant to a suspected or reasonably imminent violation of the law whether civil, criminal, or regulatory in nature and whether arising by general or program statute or by regulation, rule, or order issued pursuant thereto, to a Federal, State, local, tribal, or foreign agency charged with the responsibility of investigating or prosecuting such violation, or charged with enforcing or implementing the statute, regulation, rule, or order. VA may also disclose on its own initiative the names and addresses of veterans and their dependents to a Federal agency charged with the responsibility of investigating or prosecuting civil, criminal, or regulatory violations of law, or charged with enforcing or implementing the statute, regulation, or order issued pursuant thereto.

6. Disclosure to other Federal agencies may be made to assist such agencies in preventing and detecting possible fraud or abuse by individuals in their operations and programs.

7. VA may, on its own initiative, disclose any information or records to appropriate agencies, entities, and persons when (1) VA suspects or has confirmed that the integrity or confidentiality of information in the system of records has been compromised; (2) the Department has determined that as a result of the suspected or confirmed compromise, there is a risk of embarrassment or harm to the reputations of the record subjects, harm to economic or property interests, identity theft or fraud, or harm to the security, confidentiality, or integrity of this system or other systems or programs (whether maintained by the Department or another agency or entity) that rely upon the potentially compromised information; and (3) the disclosure is to agencies, entities, or persons whom VA determines are reasonably necessary to assist or carry out the Department's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm (have already determined this does not make sense; see my possible solution in the preamble). This routine use permits disclosures by the Department to respond to a suspected or confirmed data breach, including the conduct of any risk analysis or provision of credit protection services as provided in 38 U.S.C. 5724, as the terms are defined in 38 U.S.C. 5727.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

(a) *Storage:*

Records are maintained on paper in the Office of the Executive Secretary (001B), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420.

(b) *Retrievability:*

Records are maintained by subject and unique number generated by an automated system. In addition, records for Members of Congress are maintained in alphabetical order by last name.

(c) *Safeguards:*

Hard copy records are maintained in a controlled facility, where physical entry is restricted by the use of locks, guards, and/or administrative procedures. Access to records is limited to those employees who require the records to perform their official duties consistent with the purpose for which the information was collected. All personnel whose official duties require access to the information are trained in the proper safeguarding and use of the information.

(d) *Retention and Disposal:*

Records will be maintained and disposed of, in accordance with records disposition authority, approved by the Archivist of the United States.

System Manager(s) and Addresses:

Gemma Button, Deputy Executive Secretary, Office of the Executive Secretary (001B), Office of the Secretary, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420.

NOTIFICATION PROCEDURES:

Individuals seeking to determine whether this System of Records contains information about them should address written inquiries to the Office of the Executive Secretary (001B), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420.

RECORD ACCESS PROCEDURE:

Individuals seeking access to or contesting the contents of records about themselves contained in this System of Records should address a written

request, including full name, address and telephone number to the Office of the Executive Secretary (001B), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420.

CONTESTING RECORD PROCEDURES:

(See record access procedures above.)

RECORD SOURCE CATEGORIES:

Records in this system are derived from processing replies to correspondence, and other inquiries that originate from Members of Congress; other Federal agencies; State, local and tribal governments; foreign governments, veterans service organizations; representatives of private or commercial entities; veterans and their beneficiaries; VA employees; and other individuals who correspond with VA or one of its components. Records maintained include material received, background information compiled and/or response sent.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

There are no exemptions being claimed for this system.

[FR Doc. E9–14965 Filed 6–24–09; 8:45 am]

BILLING CODE P

Federal Register

Thursday,
June 25, 2009

Part II

Environmental Protection Agency

40 CFR Part 63

Revision of Source Category List for Standards Under Section 112(k) of the Clean Air Act; National Emission Standards for Hazardous Air Pollutants: Area Source Standards for Aluminum, Copper, and Other Nonferrous Foundries; Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[EPA–HQ–OAR–2008–0236; FRL–8920–9]

RIN 2060–AO93

Revision of Source Category List for Standards Under Section 112(k) of the Clean Air Act; National Emission Standards for Hazardous Air Pollutants: Area Source Standards for Aluminum, Copper, and Other Nonferrous Foundries

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is revising the area source category list by changing the name of the ''Secondary Aluminum Production'' category to ''Aluminum Foundries'' and the ''Nonferrous Foundries, not elsewhere classified (nec)'' category to ''Other Nonferrous Foundries.'' At the same time, EPA is issuing final national emission standards for the Aluminum Foundries, Copper Foundries, and Other Nonferrous Foundries area source categories. These final emission standards for new and existing sources reflect EPA's determination regarding the generally available control technologies or management practices (GACT) for each of the three area source categories.

DATES: The final rule is effective on June 25, 2009. The incorporation by reference of certain publications listed in this rule is effective as of June 25, 2009.

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA–HQ–OAR–2008–0236. All documents in the docket are listed in the Federal Docket Management System index at *http://www.regulations.gov.* Although listed in the index, some information is not publicly available (*e.g.,* confidential business information (CBI) or other information whose disclosure is restricted by statute). Certain other material, such as copyrighted material, will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *http://www.regulations.gov* or in hard copy at the EPA Docket Center, Public Reading Room, EPA West, Room 3334, 1301 Constitution Ave., NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the Air Docket is (202) 566–1742.

FOR FURTHER INFORMATION CONTACT: For questions about the final standards for aluminum foundries, contact Mr. David Cole, Office of Air Quality Planning and Standards, Outreach and Information Division, Regulatory Development and Policy Analysis Group (C404–05), Environmental Protection Agency, Research Triangle Park, NC 27711; Telephone Number: (919) 541–5565; Fax Number: (919) 541–0242; E-mail address: *Cole.David@epa.gov.* For questions about the final standards for copper foundries and other nonferrous foundries, contact Mr. Gary Blais, Office of Air Quality Planning and Standards, Outreach and Information Division, Regulatory Development and Policy Analysis Group (C404–05), Environmental Protection Agency, Research Triangle Park, NC 27711; Telephone Number: (919) 541–3223; Fax Number: (919) 541–0242; E-mail address: *Blais.Gary@epa.gov.*

SUPPLEMENTARY INFORMATION:

Outline. The information in this preamble is organized as follows:

I. General Information

A. Does This Action Apply to Me?

The regulated categories and entities potentially affected by the final rule include:

Category	NAICS code [1]	Examples of regulated entities
Industry:		
Aluminum Foundries	331524	Area source facilities that pour molten aluminum into molds to manufacture aluminum castings (excluding die casting).
Copper Foundries	331525	Area source facilities that pour molten copper and copper-based alloys (*e.g.,* brass, bronze) into molds to manufacture copper and copper-based alloy castings (excluding die casting).
Other Nonferrous Foundries ...	331528	Area source facilities that pour molten nonferrous metals (except aluminum and copper) into molds to manufacture nonferrous castings (excluding die casting). Establishments in this industry purchase nonferrous metals, such as nickel, zinc, and magnesium that are made in other establishments.

[1] North American Industry Classification System.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. To determine whether your facility is regulated by this action, you should examine the applicability criteria in 40 CFR 63.11544 of subpart ZZZZZZ (National Emission Standards for Hazardous Air Pollutants: Area Source Standards for Aluminum, Copper, and Other Nonferrous Foundries). If you have any questions regarding the applicability of this action to a particular entity, consult either the air permit authority for the entity or your EPA Regional representative, as listed in 40 CFR 63.13 of subpart A (General Provisions).

B. Where Can I Get a Copy of This Document?

In addition to being available in the docket, an electronic copy of this final action will also be available on the Worldwide Web (WWW) through the Technology Transfer Network (TTN). Following signature, a copy of this final action will be posted on the TTN's policy and guidance page for newly proposed or promulgated rules at the following address: *http://www.epa.gov/ttn/oarpg/*. The TTN provides information and technology exchange in various areas of air pollution control.

C. Judicial Review

Under section 307(b)(1) of the Clean Air Act (CAA), judicial review of this final rule is available only by filing a petition for review in the United States Court of Appeals for the District of Columbia Circuit by August 24, 2009. Under section 307(b)(2) of the CAA, the requirements established by this final rule may not be challenged separately in any civil or criminal proceedings brought by EPA to enforce these requirements.

Section 307(d)(7)(B) of the CAA further provides that ''[o]nly an objection to a rule or procedure which was raised with reasonable specificity during the period for public comment (including any public hearing) may be raised during judicial review.'' This section also provides a mechanism for EPA to convene a proceeding for reconsideration, ''[i]f the person raising an objection can demonstrate to EPA that it was impracticable to raise such objection within [the period for public comment] or if the grounds for such objection arose after the period for public comment (but within the time specified for judicial review) and if such objection is of central relevance to the outcome of the rule.'' Any person seeking to make such a demonstration to us should submit a Petition for Reconsideration to the Office of the Administrator, U.S. EPA, Room 3000, Ariel Rios Building, 1200 Pennsylvania Ave., NW., Washington, DC 20460, with a copy to both the person(s) listed in the preceding **FOR FURTHER INFORMATION CONTACT** section, and the Associate General Counsel for the Air and Radiation Law Office, Office of General Counsel (Mail Code 2344A), U.S. EPA, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

II. Background Information for This Final Rule

Section 112(d) of the CAA requires us to establish national emission standards for hazardous air pollutants (NESHAP) for both major and area sources of hazardous air pollutants (HAP) that are listed for regulation under CAA section 112(c). A major source emits or has the potential to emit 10 tons per year (tpy) or more of any single HAP or 25 tpy or more of any combination of HAP. An area source is a stationary source that is not a major source.

Section 112(k)(3)(B) of the CAA calls for EPA to identify at least 30 HAP that, as the result of emissions from area sources, pose the greatest threat to public health in the largest number of urban areas. EPA implemented this provision in 1999 in the Integrated Urban Air Toxics Strategy (64 FR 38715, July 19, 1999). In the Strategy, EPA identified 30 HAP that pose the greatest potential health threat in urban areas; these HAP are referred to as the ''30 urban HAP.'' Section 112(c)(3) requires EPA to list sufficient categories or subcategories of area sources to ensure that area sources representing 90 percent of the emissions of the 30 urban HAP are subject to regulation. We implemented these requirements through the Strategy and subsequent updates to the source category list. The aluminum foundry area source category was listed pursuant to section 112(c)(3) for its contribution toward meeting the 90 percent requirement for beryllium, cadmium, lead, manganese, and nickel compounds. The copper foundry area source category was listed due to emissions of lead, manganese, and nickel compounds, and the other nonferrous foundry area source category was listed due to emissions of chromium, lead, and nickel compounds.

Under CAA section 112(d)(5), the Administrator may, in lieu of issuing a MACT standard pursuant to CAA section 112(d)(2), elect to promulgate standards or requirements for area sources ''which provide for the use of generally available control technology or management practices by such sources to reduce emissions of hazardous air pollutants.'' As explained in the preamble to the proposed NESHAP, EPA proposed, and is finalizing in today's action, standards based on generally available control technology and management practices (GACT).

We are issuing these final standards in response to a court-ordered deadline that requires EPA to issue standards for these three foundry source categories listed pursuant to section 112(c)(3) and (k) by June 15, 2009 (*Sierra Club* v. *Johnson,* No. 01–1537, (D.D.C., March 2006)).

III. Revision to the Source Category List

This notice announces two revisions to the area source category list developed under our Integrated Urban Air Toxics Strategy pursuant to section 112(c)(3) of the CAA. The first revision changes the name of the ''Secondary Aluminum Production'' source category to ''Aluminum Foundries.'' The second revision changes the name of the ''Nonferrous Foundries, nec'' source category to ''Other Nonferrous Foundries.'' [1]

IV. Summary of Changes Since Proposal

This final rule contains several clarifications to the proposed rule as a result of public comments. We explain the reasons for these changes in detail in the summary of comments and responses (section VI of this preamble).

First, we established that the production from calendar year 2010 is used to determine if your existing aluminum, copper, or other nonferrous foundry melted more than 600 tpy of aluminum, copper, other nonferrous metals, and all associated alloys and, therefore, is subject to the rule. If a foundry with an existing melting operation increases production after 2010 such that the annual metal melt production equals or exceeds 600 tpy, it must notify the permitting authority within 30 days after the end of that calendar year and comply with the rule within 2 years following the date of the notification. If a foundry with an existing melting operation subsequently decreases annual production after 2010 such that it produces less than 600 tpy, the foundry remains subject to the rule. Foundries with new melting operations are subject to the rule if the annual metal melt capacity at the time of startup equals or exceeds 600 tpy. If a foundry with a new melting operation increases capacity after startup such that the annual metal melt capacity equals or

[1] We did not receive any adverse comments on the proposed revisions to the list.

exceeds 600 tpy, it must notify the permitting authority within 30 days after the capacity increase and comply with the rule at the time of the capacity increase. If a foundry with a new melting operation subsequently decreases annual capacity after startup such that the capacity is less than 600 tpy, the foundry remains subject to the rule.

Second, we revised the rule to clarify that the production from calendar year 2010 for existing sources (or capacity at the time of startup for new sources) is used to determine if you are a small copper or other nonferrous foundry or a large copper or other nonferrous foundry. Large foundries are subject to both management practices and particulate matter (PM) emission limits.

The final rule also addresses comments on production levels that may fluctuate above or below the 6,000 tpy annual copper and other nonferrous metal melt production (excluding aluminum) and whether the PM/metal HAP control requirements apply to copper and other nonferrous foundries when the melt production rises above or falls below 6,000 tpy. If a small copper or other nonferrous foundry with an existing melting operation increases production after the 2010 calendar year such that the annual copper and other nonferrous metal melt production equals or exceeds 6,000 tons, the foundry must submit a notification of foundry reclassification to the Administrator (or his or her authorized representative) within 30 days after the end of that calendar year and comply with the requirements for large copper or other nonferrous foundries no later than 2 years after the date of the foundry's notification that the annual copper and other nonferrous metal melt production equaled or exceeded 6,000 tons. If a large copper or other nonferrous foundry with an existing melting operation subsequently decreases production such that the quantity of copper and other nonferrous metal melted is less than 6,000 tpy, it remains a large copper or other nonferrous foundry.

If, subsequent to start-up, a new source small copper or other nonferrous foundry increases its melting operation capacity such that the annual copper and other nonferrous metal melt capacity equals or exceeds 6,000 tons, the foundry must submit a notification of foundry reclassification to the Administrator (or his or her authorized representative) within 30 days after the increase in capacity and comply with the requirements for large copper or other nonferrous foundries at the time of the capacity increase. If a new source large copper or other nonferrous foundry subsequently decreases metal melt capacity such that the capacity is less than 6,000 tpy, it remains a large copper or other nonferrous foundry and must continue to comply with the PM/metal HAP control requirements.

We further clarified in the final rule that, in determining whether a source's ''annual metal melt production'' (for existing sources) and ''annual metal melt capacity'' (for new sources) exceeds 600 tpy, sources must identify the total amount of only aluminum, copper, and other nonferrous metal melted for existing sources (or the capacity to melt only aluminum, copper, and other nonferrous metal for new sources), and not the total amount of all types of metal melted (or the capacity to melt all metals for new sources). The comments EPA received noted that this clarification is particularly important for aluminum, copper, and other nonferrous melting operations that are co-located with ferrous metal melting operations. Similarly, we also clarified that the 6,000 tpy threshold between small and large copper and other nonferrous foundries (excluding aluminum foundries) is based on the annual amount of copper and other nonferrous metal (excluding aluminum) that is melted.

We revised the recordkeeping requirements to remove the requirement to record the date and time of each melting operation. Several commenters, specifically for smaller sources, expressed that the burden of recording and keeping these records would not have provided useful documentation that the required management practices were being followed. We have added a provision to the final rule that requires monthly inspections to document that the management practices are being followed during melting operations.

We also adjusted the visible emission (VE) monitoring requirements to allow a reduction from daily to weekly observations after 30 consecutive days of no VE instead of 90 consecutive days. Several commenters noted that there are some special occasions when the cause of VE cannot be remedied within 3 hours as proposed. We changed the VE requirements to parallel those for bag leak detection systems, which allow more than 3 hours if the owner or operator identifies the specific conditions in a monitoring plan, adequately explains why more than 3 hours is necessary, and demonstrates that the requested time will alleviate the problem as expeditiously as practicable.

Based on our survey results and a review of operating permits, we expect most (if not all) large copper and other nonferrous foundries will use a fabric filter to control emissions from melting operations. However, it is conceivable that a new or existing foundry could use a device other than a fabric filter. We revised the monitoring requirements for large copper and other nonferrous foundries that use a control device other than a fabric filter to require that they submit a request to use alternative monitoring procedures as required by the General Provisions (section 63.8(f)(4)). Submitting this request is consistent with EPA's requirements and procedures for alternative monitoring.

Finally, we have clarified that the final rule does not include other source categories, such as secondary aluminum production, secondary copper production, secondary nonferrous metal production, and primary copper smelting. We have explicitly stated in the rule that primary and secondary metal melting operations are not subject to this foundry rule. We clarified the definition of foundries to include the casting of complex metal shapes and to exclude the products cast by primary and secondary metal production facilities (*e.g.,* sows, ingots, bars, anode copper, rods, and copper cake).

V. Summary of Final Standards

A. Is My Foundry Subject to This Subpart?

The three source categories subject to this rule include aluminum foundries, copper foundries, and other nonferrous foundries. Any aluminum, copper, or other nonferrous foundry is subject to this subpart if it (1) is an area source defined by 40 CFR 63.2, (2) has an annual metal melt production in calendar year 2010 for existing affected sources or an annual metal melt capacity at startup for new affected sources of 600 tpy or more, and (3) is an aluminum foundry that uses material containing ''aluminum foundry HAP,'' a copper foundry that uses material containing ''copper foundry HAP,'' or an other nonferrous foundry uses material containing ''other nonferrous foundry HAP'' (as these terms are defined in more detail below).

Material containing ''aluminum foundry HAP'' is any material that contains beryllium, cadmium, lead, or nickel in amounts greater than or equal to 0.1 percent by weight (as the metal), or contains manganese in amounts greater than or equal to 1.0 percent by weight (as the metal). Material containing ''copper foundry HAP'' is any material that contains lead or nickel in amounts greater than or equal to 0.1 percent by weight (as the metal), or

contains manganese in amounts greater than or equal to 1.0 percent by weight (as the metal). Material containing ''other nonferrous foundry HAP'' is any material that contains chromium, lead, or nickel in amounts greater than or equal to 0.1 percent by weight (as the metal). The owner or operator must determine whether material contains aluminum, copper, or other nonferrous foundry HAP, for example, by using formulation data provided by the manufacturer or supplier, such as the material safety data sheet (MSDS).

B. Do These Standards Apply to My Source?

The standards apply to the melting operations (the affected source) at foundries subject to the rule as discussed above. More specifically, the affected source is (and the standards apply to) (1) the collection of all aluminum foundry melting operations that melt any material containing aluminum foundry HAP, (2) the collection of all copper foundry melting operations that melt any material containing copper foundry HAP, and (3) the collection of all other nonferrous foundry melting operations that melt any material containing other nonferrous foundry HAP. ''Melting operations'' means the collection of furnaces (*e.g.*, induction, reverberatory, crucible, tower, dry hearth) used to melt metal ingot, alloyed ingot and/or metal scrap to produce molten metal that is poured into molds to make castings.

A foundry is an existing affected source if construction or reconstruction of the melting operations commenced on or before February 9, 2009. A foundry is a new affected source if construction or reconstruction of the melting operations commenced after February 9, 2009. Because the affected source is the collection of all the melting operations at, for example, a copper foundry, addition of new melting equipment at an existing affected source (*i.e.*, a source constructed before February 9, 2009) does not subject the foundry to the GACT standards for a new affected source. Furthermore, the standards for a new affected source would only apply to an aluminum, copper or other nonferrous foundry that is constructed or reconstructed after February 9, 2009.

C. When Must I Comply With These Standards?

The owner or operator of an existing affected source is required to comply with the rule no later than June 27, 2011. The owner or operator of a new affected source is required to comply by June 25, 2009 or upon startup of the source, whichever occurs later.

D. What Are the Final Standards?

These final standards establish that the following management practices are GACT for all new and existing affected sources at aluminum, copper, and other nonferrous foundries: (1) Cover or enclose melting furnaces that are equipped with covers or enclosures during the melting process, to the extent practicable (*e.g.*, except when access is needed, including, but not limited to, charging, alloy addition, and tapping); and (2) purchase only scrap material that has been depleted (to the extent practicable) of ''aluminum foundry HAP,'' ''copper foundry HAP'', or ''other nonferrous foundry HAP'' in the materials charged to the melting furnace(s), excluding HAP metals that are required to be added for the production of alloyed castings or that are required to meet written specifications for the casting. Owners or operators of affected sources must develop and operate under a written management practices plan for minimizing emissions from melting operations that apply the two techniques described above. The rule also requires owners or operators to retain the plan and the appropriate records to demonstrate that the two techniques are used during melting operations. Both EPA and the State permitting authority can request to review the management practices plan at their discretion.

In addition, the owner or operator of an existing affected source at a large copper foundry and other nonferrous foundry (*i.e.*, one that melts at least 6,000 tpy of copper and other nonferrous metal, excluding aluminum) is required to achieve a PM control efficiency of at least 95.0 percent or an outlet PM concentration of at most 0.015 grains per dry standard cubic foot (gr/dscf). The owner or operator of a new affected source at a large copper foundry or other nonferrous foundry must achieve a PM control efficiency of at least 99.0 percent or an outlet PM concentration of at most 0.010 gr/dscf.

E. What Are the Testing and Monitoring Requirements?

1. Performance Test

No performance tests are required for an aluminum foundry or for a small copper or other nonferrous foundry (*i.e.*, one that melts less than 6,000 tpy of copper and other nonferrous metal, excluding aluminum) because they are subject only to the management practices as described in 63.11550(a). The owner or operator of any existing or any new affected source at a large copper or other nonferrous foundry is required to conduct a one-time initial performance test to demonstrate compliance with the PM/metal HAP standard. The owner or operator is required to test PM emissions from melting operations using EPA Method 5 or 5D (40 CFR part 60, appendix A–3) or EPA Method 17 (40 CFR part 60, appendix A–6).

A performance test is not required for an existing affected source if a prior performance test has been conducted within 5 years of the compliance date using the methods required by this final rule, and either (1) no process changes have been made since the test, or (2) the owner or operator can demonstrate to the satisfaction of the permitting authority that the results of the performance test, with or without adjustments, reliably demonstrate compliance despite process changes.

2. Monitoring Requirements

The owner or operator of a new or existing affected source (*i.e.*, the collection of melting operations as defined in section 63.11556 of this final rule) is required to record information to document conformance with the management practices plan, including conducting monthly inspections, to document that the management practices are being followed.

For existing affected sources at large copper or other nonferrous foundries where PM emissions are controlled by a fabric filter, the owner or operator is required to conduct daily observations of VE from the fabric filter outlet during melting operations. We do not expect any VE from a fabric filter that is properly designed, operated, and maintained. Should any of the daily observations reveal any VE, the owner or operator must initiate corrective action to determine the cause of the VE within 1 hour and alleviate the cause of the emissions within 3 hours of the observations by taking whatever corrective actions are necessary. The owner or operator may take more than 3 hours to alleviate the cause of VE if the owner or operator has already identified the specific condition requiring more time in a monitoring plan. In addition to identifying the condition in the plan, the owner or operator must also adequately explain in the monitoring plan why it is not feasible to alleviate this condition within 3 hours of the time the VE occurs, provide an estimate of the time that it would take to alleviate the cause, and demonstrate that the requested time will ensure alleviation of this condition

as expeditiously as practicable. The owner or operator must record the results of the daily observations and any corrective actions taken in response to VE. Owners or operators of large copper or other nonferrous foundries could decrease the frequency of observations from daily to weekly if the foundry operates for at least 30 consecutive days without any VE. The owner or operator must maintain adequate records to support the claim of no VE for the 30-day operating period. After the foundry converts to a weekly observation schedule, if any VE are observed, the foundry must revert back to daily observations. The foundry may subsequently reduce the observations to weekly if it operates for at least 30 consecutive days without any VE.

As an alternative to the VE observations, an owner or operator of an existing affected source at a large copper or other nonferrous foundry may elect to operate and maintain a bag leak detection system as described below for a new affected source at a large copper or other nonferrous foundry.

The owner or operator of a new affected source (*i.e.*, collection of melting operations) at a large copper or other nonferrous foundry must install, operate and maintain a bag leak detection system to monitor the affected source. The owner or operator of a new affected source at a large copper or other nonferrous foundry must also prepare a site-specific monitoring plan for each bag leak detection system. As with monitoring the VE for an existing affected source, EPA expects that a properly designed, operated and maintained filter system will not trigger the leak detection system.

Our study of the industry indicates that fabric filters are used as the control device for melting furnaces; however, a new or existing melting operation may use some other type of control device to meet the PM emission standards. If a large copper or other nonferrous foundry uses a control device other than a fabric filter for a new or existing melting operation to comply with the PM emission standards, the owner or operator must submit a request to use an alternative monitoring procedure as required by the General Provisions in section 63.8(f)(4).

F. What Are the Notification, Recordkeeping, and Reporting Requirements?

The owner or operator of an existing or new affected source is required to comply with certain notification, recordkeeping and reporting requirements of the General Provisions (40 CFR part 63, subpart A), which are identified in Table 1 of the final rule. Each owner or operator of an affected source is required to submit an Initial Notification according to the requirements section 63.9(a) through (d) and a Notification of Compliance Status according to the requirements in section 63.9(h) of the NESHAP General Provisions (40 CFR part 63, subpart A). In addition to the information required in 63.9(h), the owner or operator must indicate how it plans to comply with the requirements.

Each owner or operator of an existing or new affected source is required to keep records to document compliance with the required management practices. If the melting operations use a cover or enclosure, the owner or operator must identify which melting furnaces are equipped with a cover or enclosure, and record the results of the monthly inspection in order to demonstrate compliance with the procedures in the management practices plan for covers or enclosures. These records may be in the form of a checklist.

The owner or operator of a new or existing affected source must also keep records of the metal scrap purchased to demonstrate compliance with the requirement that only metal scrap that has been depleted of HAP metals prior to charging can be used in the melting furnace(s).

Owners or operators of existing affected sources at large copper or other nonferrous foundries equipped with a fabric filter that choose to comply with the PM standard through visual emission observations must maintain records of all VE monitoring data including:

- Date, place, and time of the monitoring event;
- Person conducting the monitoring;
- Technique or method used;
- Operating conditions during the activity;
- Results, including the date, time, and duration of the period from the time the monitoring indicated a problem to the time that monitoring indicated proper operation.
- Maintenance or other corrective action.

Recordkeeping requirements also apply to facilities that use bag leak detection systems, including records of the bag leak detection system output, bag leak detection system adjustments, the date and time of all bag leak detection system alarms, and for each valid alarm, the time corrective action was taken, the corrective action taken, and the date on which corrective action was completed.

Existing affected sources at small copper and other nonferrous foundries (excluding aluminum) must keep records to demonstrate that the annual copper and other nonferrous metal melt production is less than 6,000 tpy for each calendar year.

Similarly, new affected sources at small copper and other nonferrous foundries (excluding aluminum) must keep records to demonstrate that the annual copper and other nonferrous metal melt capacity is less than 6,000 tpy for each calendar year.

If a deviation from the rule requirements occurs, an affected source is required to submit a compliance report for that reporting period. The final rule, section *63.11553(e)*, specifies the information requirements for such compliance reports.

G. What Are the Title V Permit Requirements?

This final rule exempts the aluminum foundries, copper foundries, and other nonferrous foundries area source categories from title V permitting requirements unless the affected source is otherwise required by law to obtain a title V permit. For example, sources that have title V permits because they are major sources under the criteria pollutant program (*i.e.,* for PM, ozone, carbon monoxide, nitrogen oxides, sulfur dioxide and lead) would maintain those permits.

VI. Summary of Comments and Responses

We received public comments on the proposed rule from a total of 24 commenters. These commenters included eight companies, seven trade associations, five representatives of State agencies, three private citizens, and one environmental organization. Sections VI.A through VI.I of this preamble summarize the comments and provide our responses.

A. GACT Issues

1. Selection of GACT

Comment: One commenter stated that EPA's decision to issue GACT standards pursuant to CAA section 112(d)(5), instead of MACT standards pursuant to section 112(d)(2) and (3), is arbitrary and capricious because EPA provided no rationale for its decision to issue GACT standards. The commenter also claimed that the proposed standards are based solely on cost and are thus unlawful and arbitrary.

The commenter claims that CAA section 112(d)(5) does not direct EPA to set standards based on what is cost effective; rather, according to the

commenter EPA must establish GACT based on the ''methods, practices and techniques which are commercially available and appropriate for application by the sources in the category considering economic impacts.'' The commenter stated that because cost effectiveness is not relevant under CAA section 112(d)(5), the reliance on cost effectiveness as the sole determining factor in establishing GACT renders the proposed standards unlawful.

Response: As the commenter recognizes, in section 112(d)(5), Congress gave EPA explicit authority to issue alternative emission standards for area sources. Specifically, section 112(d)(5), which is titled ''Alternative standard for area sources,'' provides:

> With respect *only* to categories and subcategories of area sources listed pursuant to subsection (c) of this section, the Administrator *may*, *in lieu of* the authorities provided in paragraph (2) and subsection (f) of this section, elect to promulgate standards or requirements applicable to sources in such categories or subcategories which provide for the use of generally available control technologies or management practices by such sources to reduce emissions of hazardous air pollutants. *See* CAA section 112(d)(5) (*emphasis added*).

There are two critical aspects to section 112(d)(5). First, section 112(d)(5) applies only to those categories and subcategories of area sources listed pursuant to section 112(c). The commenter does not dispute that EPA listed the aluminum, copper, and other nonferrous foundries area source categories pursuant to section 112(c). Second, section 112(d)(5) provides that for area sources listed pursuant to section 112(c)(3), EPA ''*may, in lieu of*'' the authorities provided in section 112(d)(2) and 112(f), elect to promulgate standards pursuant to section 112(d)(5). Section 112(d)(2) provides that emission standards established under that provision ''require the maximum degree of reduction in emissions'' of HAP (also known as MACT). Section 112(d)(3), in turn, defines what constitutes the ''maximum degree of reduction in emissions'' for new and existing sources. *See* section 112(d)(3).[2]

Webster's dictionary defines the phrase ''in lieu of'' to mean ''in the place of'' or ''instead of.'' *See* Webster's II New Riverside University (1994). Thus, section 112(d)(5) authorizes EPA to promulgate standards under section 112(d)(5) that provide for the use of GACT, *instead of* issuing MACT standards pursuant to section 112(d)(2) and (d)(3). The statute does not set any condition precedent for issuing standards under section 112(d)(5) other than that the area source category or subcategory at issue must be one that EPA listed pursuant to section 112(c)(3), which is the case here.[3]

The commenter argues that EPA must provide a rationale for issuing GACT standards under section 112(d)(5), instead of MACT standards. The commenter is incorrect. Had Congress intended that EPA first conduct a MACT analysis for each area source category, Congress would have stated so expressly in section 112(d)(5). Congress did not require EPA to conduct any MACT analysis, floor analysis or beyond-the-floor analysis before the Agency could issue a section 112(d)(5) standard. Rather, Congress authorized EPA to issue GACT standards for area source categories listed under section 112(c)(3), and that is precisely what EPA has done in this rulemaking.

Although EPA need not justify its exercise of discretion in choosing to issue a GACT standard for an area source listed pursuant to section 112(c)(3), EPA still must have a reasoned basis for the GACT determination for the particular area source category. The legislative history supporting section 112(d)(5) provides that GACT is to encompass:

> * * * methods, practices and techniques which are commercially available and appropriate for application by the sources in the category considering economic impacts and the technical capabilities of the firms to operate and maintain the emissions control systems.

See Senate Report on the 1990 Amendments to the Act (S. Rep. No. 101–228, 101st Cong. 1st session. 171–172). The discussion in the Senate report clearly provides that EPA may consider costs in determining what constitutes GACT for the area source category.

Congress plainly recognized that area sources differ from major sources, which is why Congress allowed EPA to consider costs in setting GACT standards for area sources under section 112(d)(5), but did not allow that consideration in setting MACT floors for major sources pursuant to section 112(d)(3). This important dichotomy between section 112(d)(3) and section 112(d)(5) provides further evidence that Congress sought to do precisely what the title of section 112(d)(5) states—provide EPA the authority to issue ''[a]lternative standards for area sources.''

Notwithstanding the commenter's claim, EPA properly issued standards for the area source categories at issue here under section 112(d)(5) and in doing so provided a reasoned basis for its selection of GACT for these area source categories. As explained in the proposed rule and below, EPA evaluated the control technologies and management practices that reduce HAP emissions at aluminum, copper and other nonferrous foundries, including those at both major and area sources. *See* 74 FR 6512. In its evaluation, EPA used information from an EPA survey of the three source categories, discussed options for control with industry trade associations, and reviewed operating permits to identify the emission controls and management practices that are currently used to control PM and metal HAP emissions. We also considered technologies and practices at major and area sources in similar categories. For example, we reviewed the management practices required by the area source standards for iron and steel foundries (40 CFR part 63, subpart ZZZZZ).

In our evaluation, we identified certain management practices and PM control techniques that have been implemented at a significant number of foundries. Of the management practices identified, two in particular were used frequently: (1) Cover or enclose melting furnaces that are equipped with covers or enclosures during the melting process, and (2) purchase only scrap that has been depleted (to the extent practicable) of HAP metals in the materials charged to the melting furnace. Of the PM control technologies identified, we found that large copper and other nonferrous foundries (*i.e.,* foundries melting 6,000 tpy or more of copper and other nonferrous metal) frequently used control technologies to reduce PM/HAP emissions, while smaller (less than 6,000 tpy) did not. Furthermore, we found that large copper and other nonferrous foundries used fabric filters as the primary technique to reduce PM/HAP metal emissions. The

[2] Specifically, section 112(d)(3) sets the minimum degree of emission reduction that MACT standards must achieve, which is known as the MACT floor. For new sources, the degree of emission reduction shall not be less stringent than the emission control that is achieved in practice by the best-controlled similar source, and for existing sources, the degree of emission reduction shall not be less stringent than the average emission limitation achieved by the best performing 12 percent of the existing sources for which the Administrator has emissions information. Section 112(d)(2) directs EPA to consider whether more stringent—so called ''beyond-the-floor''—limits are technologically achievable considering, among other things, the cost of achieving the emission reduction.

[3] Section 112(d)(5) also references section 112(f). *See* CAA section 112(f)(5) (titled ''Area Sources''), which provides that EPA is not required to conduct a review or promulgate standards under section 112(f) for any area source category or subcategory listed pursuant to section 112(c)(3) and for which an emission standard is issued pursuant to section 112(d)(5).

wide use of the management techniques and PM controls indicates that such practices are generally available for the area source categories at issue.

The commenter further argues that EPA inappropriately chose the management practices and controls described above as GACT based solely on costs, and according to the commenter, cost is not relevant to GACT determinations and as such the standards are unlawful. We disagree. First, contrary to the commenter's assertions, EPA did not select GACT on cost alone, as the discussion above supports. Second, and also contrary to the commenter's assertions, the Agency's consideration of cost effectiveness in establishing GACT and the Agency's views on what is a cost-effective requirement under section 112(d)(5) are relevant. The U.S. Court of Appeals for the *DC* Circuit has stated that cost effectiveness is a reasonable measure of cost as long as the statute does not mandate a specific method of determining cost. *See Husqvarna AB* v. *EPA,* 254 F.3d 195, 201 (D.C. Cir. 2001) (finding EPA's decision to consider costs on a per ton of emissions removed basis reasonable because CAA section 213 did not mandate a specific method of cost analysis).

In addition to evaluating what was generally available to the foundries at issue, we considered costs and economic impacts in determining GACT. We estimated the cost of compliance for the proposed rule to include a one-time first year cost of $656,000, a recurring total annualized cost of $645,000 per year, and an average of $2,000 per year per plant. (74 FR 6522). To the best of our knowledge and based on the information we have available, the management practices are not costly to implement and would not result in any significant adverse economic impact on any foundry. Our economic impact analysis estimated that the proposed rule would have an impact of less than 0.05 percent of sales (74 FR 6523). We believe the consideration of costs and economic impacts is especially important for determining GACT for the aluminum, copper, and other nonferrous foundries because, given their relatively low level of HAP emissions, requiring additional controls would result in only marginal reductions in emissions at very high costs for modest incremental improvement in control.

Finally, even though not required, EPA did provide a rationale for why it set a GACT standard in the proposed rule. In the proposal, we explained that the facilities in the source categories at issue here are already well controlled for the urban HAP for which the source category was listed pursuant to section 112(c)(3). *See* 74 FR 6517 and 6522. Consideration of costs and economic impacts proves especially important for the well-controlled area sources at issue in this final action. Given the current, well-controlled emission levels, a MACT floor determination, where costs cannot be considered, could result in only marginal reductions in emissions at very high costs for modest incremental improvement in control for the area source category.

2. Cost Effectiveness of the GACT Standards

Comment: One commenter claimed that EPA did not undertake sufficient analysis to support the conclusion that ''given their relatively low levels of HAP emissions, requiring additional controls would result in only marginal reductions in emissions at very high costs for modest incremental improvement in control.'' (*See* 74 FR 6517.) As an example, the commenter said that for copper and other nonferrous foundries that melt 6,000 tpy or more, EPA determined that the majority of facilities currently operate using a control system for PM, and that those controls achieve a reduction in PM emissions of 95 percent. According to the commenter, EPA did not consider setting a tighter standard despite the fact that of the eight facilities that reported the efficiency of their add-on controls, four achieved an efficiency of 98 percent or higher. The commenter stated that when EPA analyzed and rejected stronger control options, the analysis was based solely on the cost-effectiveness of those controls. The commenter also asserted that EPA should not have rejected the option of requiring all copper and other nonferrous foundries to utilize add-on controls because, in the commenter's view, such controls are ''generally available'' and ''effective for controlling emissions of PM and metal HAP from copper and nonferrous foundries.''

The commenter noted that EPA determined that it would be overly costly to require facilities to install new PM control devices for the under 6,000 tpy subcategory because the cost effectiveness was $50,000 per ton of PM and $1 million per ton of metal HAP. According to the commenter, EPA neither claims that the economic impacts are too great based on the profitability of these plants, nor determines how economically significant it would be for such a plant to make the necessary investment in these controls.

Response: EPA properly issued standards for the area source categories at issue here under section 112(d)(5), and cost effectiveness was not the only consideration in setting the standards.

In establishing GACT standards for all three types of foundries, EPA determined that all affected sources subject to this rule must meet two management practices applicable to the melting operations to reduce the HAP emissions. First, covers or enclosures are used during the melting operation on furnaces that have them to suppress emissions. Second, the purchased scrap is depleted to the extent practicable of HAP metals that are contaminants and are not necessary to meet product specifications. EPA found that most of the sources in the survey employed one or both of these methods to control HAP emissions from the melting process. Affected sources must use these two practices to comply with this area source standard. The general use of these methods and their acceptable costs and economic impacts led EPA to choose these as part of the GACT standards applicable to aluminum, copper and other nonferrous foundries.

For existing large copper and other nonferrous foundries, EPA determined these affected sources have generally available to them PM control techniques that result in a PM control efficiency of 95 percent. The survey conducted prior to the proposal indicated that the large copper and other nonferrous foundries used operating practices and add-on control devices to control PM emissions. EPA requested test data as part of the industry survey, but none was provided. Sources did report control efficiencies, but in some cases, the control levels for the baghouses and cartridge filters were engineering estimates or equipment manufacturer specifications.

In choosing the management practices for foundries in all three source categories and additional PM controls on large copper and other nonferrous foundries, EPA looked to the discussion on GACT as found in the Senate report on the legislation (Senate report No. 101–228, Dec. 20, 1989), which describes GACT as:

> * * * methods, practices and techniques which are commercially available and appropriate for application by the sources in the category considering economic impacts and the technical capabilities of the firms to operate and maintain the emission controls systems.

The information we collected supports a 95 percent control level for PM (as a surrogate for metal HAP) as GACT for these two categories of existing area sources. While the data collected during the survey shows that

some sources reported a 98 percent PM emission control efficiency, the data also showed that the control equipment commercially available and appropriate for application to these sources (*e.g.,* baghouses) does not result in control efficiencies of 98 percent on a continuing basis. *See Mossville Environmental Action Now* v. *EPA,* 370 F.3d 1232, 1242 (D.C. Cir. 2004) (EPA may appropriately account for operational variability in setting section 112(d) emission standards).

EPA also determined that the cost associated with replacing existing control equipment that achieves 95 percent control with newer equipment to achieve 98 percent control would result in a cost and cost effectiveness not justified by the incremental reduction in emissions. For example, consider a copper foundry melting 6,000 tpy of copper in electric induction furnaces with a fabric filter as the control device operating at 95 percent control efficiency. Uncontrolled emissions of PM (at 1.5 lb/ton) and HAP (at 5 percent of PM) of 4.5 tpy and 0.23 tpy, respectively, would be reduced to 0.225 and 0.0113 tpy, respectively, assuming the 95 percent control efficiency of the existing fabric filter. Either a new baghouse in series or an expanded baghouse, both with newer fabric for the filter (*e.g.,* membrane bags) and a lower air-to-cloth ratio, would be required to increase the control efficiency from 95 percent to 98 percent. At the new 98 percent control level, emissions of PM and HAP would be reduced to 0.09 tpy and 0.0045 tpy, respectively. The capital cost of the new or expanded baghouse would be $520,000 with a total annualized cost of $119,000 per year (sized for a flow of 16,500 actual cubic feet per minute). The incremental cost effectiveness for the upgrade would be $880,000/ton for PM and $18,000,000/ton for HAP, which is a very high cost effectiveness to achieve an additional HAP emission reduction of only 0.0067 tpy (0.0113 tpy at 95 percent control versus 0.0045 tpy at 98 percent control). As the commenter noted and quoted, we also presented at proposal the very high cost effectiveness of requiring small copper and other nonferrous foundries (*i.e.,* all of the copper and nonferrous foundries subject to the rule) to install PM controls. We do not believe the cost numbers presented here and in the proposal are reasonable for requiring PM controls for melting furnaces at all copper and other nonferrous foundries.

Contrary to the commenter's assertions, the Agency's consideration of cost effectiveness in establishing GACT and the Agency's views on what is a cost-effective requirement under section 112(d)(5) are relevant. The U.S. Court of Appeals for the DC Circuit has stated that cost effectiveness is a reasonable measure of cost as long as the statute does not mandate a specific method of determining cost. *See Husqvarna AB* v. *EPA,* 349 U.S. App. D.C. 118, 254 F.3d 195, 201 (D.C. Cir. 2001) (Finding EPA's decision to consider costs on a per ton of emissions removed basis reasonable because CAA section 213 did not mandate a specific method of cost analysis). Section 112(d)(5) does not mandate a specific method for considering cost when setting GACT standards.

The commenter has provided no information to support its assertion that add-on control requirements for small copper and other nonferrous foundries are generally available for melting operations in the two source categories. The commenter also failed to provide any information indicating that our cost-effectiveness determinations were unreasonable and likewise failed to provide any information concerning the economic impacts associated with requiring the standards that the commenter suggests represent GACT. The GACT standards for the three foundry area source categories are consistent with the requirements of section 112(d)(5).

Comment: One commenter questioned the authority for the promulgation of the GACT standards. The commenter stated it is inconsistent with the CAA section 112(d)(1) schedules to promulgate this new area source standard after the expiration of the schedules. According to the commenter, it would be more appropriate to promulgate GACT standards under CAA section 112(f)(2)(C) to comply with the court order. The commenter stated he did not think the court intends to order EPA to violate the time frame specified by the CAA.

Response: The commenter is incorrect. In *Sierra Club* v. *Johnson,* (D.D.C. 2006), the Court held, among other things, that EPA violated a mandatory duty by failing to establish emission standards for area source categories listed pursuant to section 112(c)(3) and (k)(3)(B) by the date specified in the statute. The Court issued an order in March 2006, requiring the Agency to promulgate emission standards for the area source categories listed pursuant to section 112(c)(3) and (k)(3)(B). In August 2006, the Court issued an opinion establishing deadlines for issuing the standards. By issuing emission standards for the three area source categories at issue in this rule, the Agency is acting wholly consistently with the schedule set forth in the Court's August 2006 opinion, as amended. The commenter's thoughts about what the Court ''intend[ed] to order'' are wholly irrelevant. The order speaks for itself, and the Agency continues to comply with the terms of the order.

Moreover, because the requirements of the Court's order are unambiguous, the commenter's thoughts about the ''appropriate[ness]'' of promulgating GACT standards under CAA section 112(f)(2)(C) are similarly irrelevant. Furthermore, the commenter fails to recognize that section 112(f) of the CAA addresses the second stage of standard setting under section 112, and this phase occurs 8 years after the initial promulgation of a technology-based standard under section 112(d). This rule marks the promulgation of a technology-based standard under section 112(d). If EPA sought to conduct a residual risk analysis for these categories, it would do so 8 years after issuance of the section 112(d) standard. The commenter also fails to recognize that residual risk review is not required for area sources where the standards are based on GACT, as is the case in this rule. *See* CAA 112(f)(5).

2. Estimates of Impacts of the Proposed Rule

Comment: One commenter stated that EPA did not estimate the emissions reductions or cost effectiveness associated with the management practices that represent GACT. The commenter noted that EPA estimated the costs associated with the rule, but not the emissions reductions, and consequently, did not show that GACT was cost effective. The commenter asked that EPA identify the amount of HAP reductions associated with the rule, and reconsider the cost effectiveness and potential impacts on area sources (almost all of which are small businesses) if the environmental benefits are minimal.

One commenter stated it was the intent of the CAA that the area source program results in reductions in emissions from area sources of hazardous air pollution and expressed disappointment that EPA's proposal states ''we estimate that the only impacts associated with the proposed rule are the compliance requirements (*i.e.,* monitoring, reporting, recordkeeping and testing).'' The commenter was concerned that such proposals are merely paperwork exercises and are not responsive to Congress' intent to reduce hazardous air pollution when it included the area source provisions in the CAA. The

commenter recommended that in this rule and in future area source proposals, EPA incorporate provisions that will provide additional public health protection from the adverse effects of emissions of HAP from area sources.

One commenter stated that, as described in the CAA section 112(k)(1), the purpose of the area source program is to ''achieve a substantial reduction in emissions of hazardous air pollutants from area sources and an equivalent reduction in the public health risks associated with such sources * * *'' According to the commenter, the approach laid out by EPA in the proposed rule does not reflect this purpose and instead focuses entirely on cost estimates. The commenter stated that the preamble did not contain any discussion or estimate of the current emissions of HAP from the sources to be regulated or the public health risks associated with those sources, and that there was no discussion of the expected benefits of the proposed rule.

Response: We disagree with the commenter's assertions that EPA did not show that GACT for these sources was cost effective. We examined all available HAP emission reduction approaches and determined GACT, considering costs, economic impacts, and the cost effectiveness of PM control devices (74 FR 6518 and 6523). Few additional quantifiable emission reductions at existing affected sources are expected to result from the requirements of this rule because most of the existing affected sources are already implementing the process improvements, management practices, and control devices required by this rule. The requirements in the final rule, however, will prevent any existing facilities from making changes that could result in less stringent requirements and an increase in HAP emissions. Codifying these requirements will result in fewer emissions from new affected sources at large copper and other nonferrous foundries due to the more stringent PM/metal HAP emission standards and continuous monitoring by bag leak detectors. In addition, we expect that the increased attention to the implementation of management practices, recordkeeping, and the monitoring of control devices required by the rule will result in additional emission reductions because the management practices will be applied more consistently and uniformly, and control device monitoring will result in shorter times that fabric filter bags are allowed to leak. The management practices will also focus more attention on the raw materials (metals) being melted and will promote pollution prevention for reducing HAP emissions.

Although we are, in large part, codifying the status quo, the emission reductions we are obtaining, as compared to 1990 levels, are significant because these facilities have implemented controls over the past 20 years. For example, HAP emissions reported to the 1990 Toxics Release Inventory (TRI) by 86 foundries in these three source categories totaled 18.2 tpy compared to 13.6 tpy in 2005 with 132 plants reporting (*i.e.,* there has been a large decrease in emissions even though over 50 percent more plants were reporting to the TRI). These reductions are consistent with the goals of the Urban Air Toxics Strategy, which uses 1990 as the baseline year and measures reductions against that baseline.

Finally, one commenter requests that EPA incorporate provisions that will provide additional public health protection from HAP emissions. In this rule, we set technology-based standards pursuant to section 112(d)(5) for three area source categories. The emission control requirements in the final rule reflect GACT. Although assessing public health risks is not a part of the GACT determination, we believe that the rule requirements will provide important public health protection, as discussed above.

3. GACT Determination for PM

Comment: One commenter stated that it was unclear from the administrative record how EPA set the standards for control efficiencies and emission limits for copper and other nonferrous foundries. Based on the limited data available to EPA, the commenter claims that it is difficult to establish standards that foundries can reliably and consistently meet. The commenter requested that EPA provide its detailed analysis on how the control efficiencies and emission limits were established to allow the commenter to determine if the standards appropriately represent GACT.

Response: EPA developed the control efficiencies for copper and other nonferrous foundries based on available operating permit information and industry survey responses. The summary of survey responses from copper and other nonferrous foundries is included in the supporting docket materials for the proposed rule (Docket ID No. EPA–HQ–OAR–2008–0236, items 0012, 0021, and 0022).

EPA developed the alternate emission limit from control equipment (baghouse) specifications and performance test data from other NESHAP background/compliance demonstration information involving similar industries (*e.g.,* foundries), similar emission sources (*e.g.,* melting furnaces), and similar control devices (*e.g.,* baghouses).

Industry stakeholders stated that a 95 percent standard will be a significant (and costly) issue for some facilities to demonstrate compliance because it is difficult or impossible in some cases to sample the inlet according to the test method criteria because of the configuration of the duct work. Sampling the outlet is easier because it is a straight duct or stack. We investigated alternate forms of an emission limit used in similar source categories and found that baghouses in secondary nonferrous metals processing facilities were subject to an emission limit of 0.015 gr/dscf for the outlet.

For existing affected sources, the 0.015 gr/dscf limit provides at least the same level of HAP emission reduction as GACT, which requires a 95 percent reduction, based on secondary nonferrous metals processing project data (subpart TTTTTT), as well as information and test data from other similar industries that show well-designed and operated baghouses can achieve the limit. We proposed this limit as an alternative to GACT to provide flexibility and to provide a more straightforward way of demonstrating compliance.

A similar decision was made for the new affected source emission limit, *i.e.,* 99 percent control efficiency. The alternative limit proposed was 0.010 gr/dscf, which was also based on data from the secondary nonferrous metals processing NESHAP (subpart TTTTTT). We proposed an alternative limit for affected sources at large copper and other nonferrous foundries that provides at least the same level of HAP emission reduction as the 99.0 percent GACT requirement.

Comment: One commenter requested that EPA consider providing another alternative emissions limit in the proposed regulation, particularly because the proposed regulation allows control devices other than fabric filters. Specifically, the commenter said that an emissions limit expressed in ''pounds of PM per tons of metal (*i.e.,* copper and other nonferrous metal) melted'' could be helpful to many copper and other nonferrous foundries in demonstrating compliance with the applicable emissions limit, especially with a control device other than a fabric filter. The commenter noted that the emission limits in other foundry rules are often expressed in these units, and this alternative limit could allow foundries a more consistent and flexible approach to collecting data and demonstrating compliance.

Response: We agree that alternative emission standards provide additional flexibility; EPA proposed one alternate emission standard based on outlet concentrations alone to provide additional flexibility. We do not, however, have adequate data or a reasonable basis that would allow us to finalize a production-based limit (*e.g.,* ''pound per ton''). In addition, the commenter did not provide any data for EPA to assess whether a ''pound per ton'' format is appropriate or to determine the appropriate and equivalent value in that format.

B. The Source Category Designation

1. The source categories at issue in this rule are defined as only those aluminum, copper or other nonferrous foundries that melt 600 tpy or more of aluminum, copper and other nonferrous metals.

Comment: Six commenters asked that EPA revise the proposed rule to base the 600 tpy clarification of the source category only on the amount of aluminum, copper, and other nonferrous metals melted without including the quantity of ferrous metals melted. The commenters noted that this is a particular concern for foundries that are predominantly iron and steel foundries already subject to an area source standard for that source category (40 CFR Part 63, subpart ZZZZZ). The commenters stated that iron and steel foundries may melt a small amount of aluminum, copper, or other nonferrous metals, but the large majority of their production is ferrous castings. One commenter cited an example of a small ferrous foundry in Texas that is subject to subpart ZZZZZ that melted 900 tons of metal in 2008, which included 22 tons of aluminum and copper. According to the commenter, if the 600 tpy threshold includes the ferrous metal melted, this facility would be included in the source category subject to the standards. The commenter claimed that this undue burden would likely force the foundry to abandon its small nonferrous operations.

One commenter stated that foundries that melt primarily ferrous metals should not be included in the source category, and therefore subject to the rule, because they are not included in the Standard Industrial Classification (SIC) and NAICS codes used by EPA to determine the population of affected sources (*i.e.,* ferrous foundries are included in separate SIC and NAICS codes specific to iron and steel foundries). One commenter requested clarification of the rule's scope and was concerned that if the rule is promulgated as proposed, EPA may inadvertently regulate sources that are outside the rule's intended scope (*i.e.,* area source iron and steel foundries). Consequently, the commenter asked that the rule be revised to clarify that it is inapplicable to foundries melting predominately ferrous metals.

Another commenter requested that the 600 tpy threshold be determined separately for aluminum, copper, and other nonferrous metals rather than from the combined total of all three and requested that the rule clarify that the threshold is based on actual production and not on melting potential or capacity.

Response: EPA based the 600 tpy threshold on the facilities in the 1990 TRI that reported under the SIC codes for aluminum, copper, and other nonferrous foundries. Foundries melting predominantly iron and steel would have reported to TRI under different SIC codes and were not included in our 1990 TRI database for the three area source categories addressed in this rule. Consequently, when determining whether an area source meets the 600 tpy threshold, the source should not include the tpy of ferrous metal melted, but rather only include the nonferrous metal melted (aluminum, copper, and other nonferrous metals) in determining its annual production.

In our analysis of the 1990 TRI emissions data, we could not distinguish the quantities of aluminum, copper, and other nonferrous metals melted at each facility. We confirmed that some of the foundry facilities in the 1990 inventory melted a combination of these metals. Consequently, the 600 tpy threshold must be based on the sum of aluminum, copper, and other nonferrous metals melted at each existing affected source, and not based on each type of metal melted separately as the commenter suggests (*i.e.,* there is not a 600 tpy threshold for each type of nonferrous metal at a single facility).

We have clarified that for an existing source, the 600 tpy threshold is based on the annual metal melt production in calendar year 2010 and not capacity. However, for a new affected source we use the annual metal melt capacity at startup because a new affected source must comply at startup (if startup occurs after the date of publication of the final rule in the **Federal Register**), and at startup it would not have any history of annual production.

Comment: One commenter suggested that the 600 tpy threshold be based solely on the quantity of metals containing foundry HAP and not on the total amount of metal melted. The commenter cited as an example that a facility melting 599 tpy of metal containing no foundry HAP and 1 tpy of metal containing foundry HAP would be subject to the rule. On the other hand, the commenter stated that a foundry melting 599 tons of metal containing foundry HAP would not be subject to the rule. The commenter suggested that EPA reconsider the basis of the 600 tpy.

Another commenter asked for clarification of how the 600 tpy threshold should be calculated. Does the 600 tpy of metal (such as aluminum) include any aluminum the facility melts regardless of the amount of metal HAP (by weight) in the charge material?

Response: As discussed in the proposal, and clarified again in the earlier response to comment, the 600 tpy of metal melted threshold is not an applicability threshold. Rather, EPA realized that emissions from foundries that melt less than 600 tpy were not included in the 1990 TRI baseline, which is the basis of EPA's listing of the aluminum, copper and other nonferrous foundries area source categories. In addition, the 600 tpy threshold was based on the amount of aluminum, copper and other nonferrous foundry metal melted regardless of the amount of aluminum foundry HAP, copper foundry HAP or other nonferrous foundry HAP contained in the metal. Defining the threshold in this way was necessary because the level of detail regarding the individual HAP content was not available for the facilities in the 1990 emission inventory. Therefore, as the commenter pointed out, the affected source at an aluminum foundry that melts 599 tpy of aluminum that contains no aluminum foundry HAP and 1 tpy of aluminum that contains an aluminum foundry HAP is subject to this rule.

Comment: Commenters noted that the rule did not specify the baseline year(s) for determining the production level to compare with the 600 tpy threshold and also recommended that EPA address annual production fluctuations. For example, commenters asked when a facility would become subject to the rule and when must the facility demonstrate compliance if it initially melted below 600 tpy, but later in time melts over 600 tpy of aluminum, copper and other nonferrous metal. One commenter suggested that the applicability threshold be based on production in 2010 or 2011 to be consistent with the compliance date. Another related question posed by the commenter involved the applicability of the rule if a foundry initially melted over 600 tpy, but in subsequent years melted less than 600 tpy due to economic factors or other reasons.

Response: Pursuant to a court order, this final rule will be signed by the

Administrator by June 15, 2009. We expect that the rule will be published in the **Federal Register** in late June 2009, in which case the compliance date for existing sources would be June 2011 (2 years after the date of promulgation of the final standards). In light of this compliance date, we revised the rule to require that an existing foundry use the annual metal melt production for calendar year 2010 to determine whether it is in the source category. To provide further clarification, we added a definition for ''annual metal melt production.'' If the owner or operator of an existing foundry increases its annual metal melt production after 2010 such that it equals or exceeds 600 tpy in a subsequent year, the owner or operator must notify its permitting authority within 30 days after the end of that calendar year (*e.g.,* December 2011) and comply with the rule requirements within 2 years following the end of the calendar year.

If the foundry's annual metal melt production (the total aluminum, copper and other nonferrous foundry metal) exceeds 600 tpy in a subsequent year, it is not automatically subject to the GACT requirements of the rule. For example, if an aluminum foundry increases its annual metal melt production from 525 tpy to 725 tpy in 2011, it must also melt materials containing aluminum foundry HAP, as defined in section 63.11556, in order to be subject to the rule's GACT requirements. If the aluminum foundry does not melt materials that contain beryllium, cadmium, lead or nickel in amounts greater than or equal to 0.1 percent by weight (as metal), or contains manganese in amounts greater than or equal to 1.0 percent by weight (as metal), then the aluminum foundry is not subject to the GACT requirements.

If an existing foundry subsequently decreases production such that it has an annual metal melt production of less than 600 tpy, the foundry remains subject to the rule. We incorporated this requirement into the final rule for several reasons. First, we have listed the three foundry area source categories under CAA section 112(c)(3), and we based the listing and definition of the categories on those facilities that melted at least 600 tpy of aluminum, copper, other nonferrous metals, and all associated alloys in 1990, regardless if they subsequently decreased production. Second, existing foundries subject to the rule at promulgation (*i.e.,* with 600 tpy or greater metal melt production) will have prepared a management practices plan and implemented the management practices. If their annual metal melt production falls below 600 tpy for any year subsequent to 2010, EPA believes it is reasonable to expect that they keep their management practices plan and continue to implement the management practices to reduce emissions. Third, because EPA learned that the management practices are routine procedures already implemented at most foundries, EPA believes that there would be no significant burden for the rule to continue to apply if annual metal melt production falls below 600 tpy in a calendar year. Finally, if foundries (specifically, existing affected sources) on the borderline of 600 tpy of annual metal melt production (or capacity for new affected sources) fall above and below that level over different years, the time-consuming complexity of possibly other State or local permit revisions is a burden on both the permitting authority and the foundry.

We made clarifications for new affected sources that parallel those for existing affected sources except that annual metal melt capacity is used instead of production because new affected sources must comply at startup (provided startup occurs after the date of publication of this rule in the **Federal Register**), and there would be no production history at startup.

C. Subcategorization and Applicability Issues

1. Threshold of 6,000 tpy for Copper and Other Nonferrous Foundries

Comment: Several commenters asked that EPA clarify that the 6,000 tpy threshold should be determined only from the amount of copper and other nonferrous metals melted and would not include the quantity of aluminum or ferrous metals melted at the facility. One commenter requested that the 6,000 tpy threshold be determined only from the copper and other nonferrous metals that contain the foundry HAP (as defined in the rule) rather than the total amount of copper and other nonferrous metal melted. One commenter provided an example of a foundry that melts 5,000 tpy of iron and 2,000 tpy of copper. Under the proposed rule, the commenter notes that the furnace would have to be equipped with emission controls. The commenter claims this would not be consistent with EPA's analysis of cost and cost effectiveness in deriving the 6,000 tpy threshold because it was based on retrofitting baghouses to furnaces melting only copper and other nonferrous metals.

Response: The survey results used to develop the threshold included facilities that were melting copper and other nonferrous metals and indicated that facilities melting 6,000 tpy or more of copper and other nonferrous metals had PM emission controls. Although we requested data prior to proposal on the amount of copper and other nonferrous metal containing the specific foundry HAP subject to this rule, we did not receive information to determine a HAP-based threshold. In addition, the analysis of whether to apply PM controls to facilities melting less than 6,000 tpy was based on the costs and cost effectiveness of applying PM emission controls to foundries melting copper and other nonferrous metals, resulting in the conclusion that it was not cost effective to apply emission controls on those melting less than 6,000 tpy of copper and other nonferrous metal. As documented in the proposal (*see* 74 FR 6518), the cost effectiveness for applying a baghouse to the melting operations at a small copper or other nonferrous foundry was estimated to be $50,000 per ton of PM and $1 million per ton of metal HAP. Therefore, we have clarified in the rule that the 6,000 tpy threshold is based on the total amount of copper and other nonferrous metal melted, excluding the amount of aluminum and ferrous metals melted at the facility. In addition, we have added definitions for ''annual copper and other nonferrous metal melt production'' and ''annual copper and other nonferrous metal melt capacity'' to be used to determine if an affected source is subject to the control requirements. Therefore, if an existing or new affected source melts 6,000 tpy or more of copper and other nonferrous metal, it must comply with the controls for PM/metal HAP.

Comment: Four commenters asked that EPA specify in the rule how the 6,000 tpy threshold is applied under fluctuating production levels over time. One commenter suggested that the approach used in the iron and steel foundry area source rule be incorporated to address questions of changing production levels and noted that those procedures addressed both cases in which a foundry is initially below the threshold and subsequently exceeds it and also the case where a foundry subsequently produces at levels below the threshold.

Response: In the final rule, EPA has incorporated definitions for ''large foundry'' and ''small foundry.'' These definitions are consistent with the subcategorization scheme set forth in the proposed rule, which used a 6,000 tpy metal melting production rate to define facility size. We have defined a ''small foundry'' as an existing copper or other nonferrous foundry with an annual copper and other nonferrous metal melt production of less than 6,000

tpy (or a new copper or other nonferrous foundry with an annual copper and other nonferrous metal melt capacity of less than 6,000 tpy). We have defined a ''large foundry'' as a copper or other nonferrous foundry with an annual copper and other nonferrous metal melt production of 6,000 tpy or more (or a new copper or other nonferrous foundry with an annual copper and other nonferrous metal melt capacity of 6,000 tpy or more). The proposal did not discuss fluctuating production levels with regard to the 6,000 tpy threshold for determining which copper and other nonferrous foundries must comply with the PM emission limit. EPA has reviewed the Iron and Steel Foundry Area Source rule (40 CFR 63, subpart ZZZZZ). We have incorporated into this final rule some of the features of the Iron and Steel Area Source rule. For example, some of the concepts we applied from that rule include establishing a baseline calendar year for determining annual metal melt production, using capacity at startup for new affected sources, requiring a notification if a small foundry becomes a large foundry, and allowing 2 years to comply if a small foundry becomes a large foundry. Therefore, we revised this rule to provide that if the annual metal melt production of your existing small foundry equals or exceeds 6,000 tons of copper and other nonferrous metal during a calendar year subsequent to 2010, you must submit a notification of foundry reclassification to the Administrator within 30 days and comply with the requirements for existing large foundries within 2 years of the date of the notification.

However, in this rule, you must continue to comply with the requirements for large copper and other nonferrous foundries in the case of a production decrease below 6000 tpy after 2010. Because you would have already installed the emission control device, EPA believes it is reasonable to require continued operation of that device. EPA further believes it would not be reasonable to allow you to turn the control device off and not comply with the PM emission limit. Our intent at proposal was that if a large copper or other nonferrous foundry subsequently decreases annual copper and other nonferrous metal melt production below 6,000 tpy, it should remain subject to the requirements for large copper and other nonferrous foundries. We revised the rule to state that if your facility is, at any time, classified as a large foundry, you must continue to comply with the PM control requirements even if your annual copper and other nonferrous metal melt production falls below 6,000 tons in subsequent calendar years.

Comment: According to one commenter, the proposed rule language is not clear regarding whether the PM control requirements apply to aluminum foundries. The commenter would like EPA to clarify that aluminum foundries are subject only to management practices and not the add-on emission control requirements.

Response: EPA has revised the rule language to make it clear that only large copper and other nonferrous foundries (excluding aluminum) are subject to the PM control requirements. The rule's definition for large foundry includes only copper and other nonferrous foundries. Furthermore, we have inserted new definitions for the ''annual copper and other nonferrous metal melt production'' and ''annual copper and other nonferrous metal melt capacity'' to further clarify that the 6,000 tpy threshold applies only to copper and other nonferrous metal melt production. Therefore, the commenter is correct that the PM controls required in the rule are not applicable to aluminum foundries.

3. Material Containing HAP

Comment: One commenter stated that the language at section 63.11544(a)(1) should be clarified to set an unambiguous threshold for materials containing aluminum, copper or nonferrous HAP below which the rule does not apply. The commenter notes that section 63.11544(a)(1) limits applicability of the rule to foundries using material containing aluminum, copper or nonferrous foundry HAP, but it expands applicability to include foundries that use materials that have the ''potential to emit'' copper foundry HAP. The commenter claims that this language is contradictory and appears to set a de minimis applicability threshold based on the definition of material containing foundry HAP, then takes away the threshold with the catch-all ''potential to emit'' language. The commenter asked that the language be revised to clarify that the rule does not apply to foundries using feedstock that does not meet the definition of materials that contain aluminum, copper, or nonferrous foundry HAP. Several other commenters provided similar comments on the term ''potential to emit.''

One commenter requested that the definition of ''material containing aluminum foundry HAP'' be included in the ''affected source'' definition. The commenter stated that in reviewing the interrelationship of these proposed definitions, the proposed language defining ''affected source'' does not clearly limit applicability based solely on materials content. The commenter said that the linkage between the ''affected source'' definition and the definition of ''material containing aluminum foundry HAP'' is not clearly established and the use of the term ''or have the potential to emit'' seems to establish an independent applicability test that could apply even if the materials content is less than the levels set forth for ''material containing aluminum foundry HAP.'' To clarify applicability, the commenter recommended that the applicability in proposed section 63.11544, and its definition of affected source be revised to specifically use the defined term ''material containing aluminum foundry HAP,'' and either: (1) eliminate the reference to ''potential to emit'' or (2) use the conjunctive, rather than the ''disjunctive'' preposition in the definition (*i.e.,* both requirements would need to be satisfied).

Another commenter interpreted the proposal to mean that aluminum foundry operations would not be covered under the proposed rules, including the management practices provisions, if they do not use a HAP-containing material for aluminum foundries as defined in the proposed rule. The commenter interprets this to mean that the use of aluminum foundry metal below the defined weight percentage HAP content is not subject to the rule.

Response: We agree that the term ''potential to emit'' used in this context is ambiguous and unnecessary, and we have deleted it in the final rule. Our intent was that the rule be applicable to foundries that melt materials containing the aluminum foundry HAP, copper foundry HAP, and other nonferrous foundry HAP. We have also revised the applicability section in the final rule to state that the requirements apply to the collection of foundry melting operations that melt materials containing aluminum foundry HAP, copper foundry HAP, and other nonferrous foundry HAP (*see* the definitions of these terms provided in the rule). As an example, if an aluminum foundry melted greater than 600 tpy of aluminum, and that aluminum contained less than 0.1 percent by weight of beryllium, cadmium, lead or nickel (individually) and contained less than 1.0 percent by weight manganese, then that foundry would not be subject to the rule.

4. Facilities That Are Not Foundries

Comment: One commenter stated that his facility processes aluminum scrap and/or dross to produce aluminum that

is used as the raw material in other operations. The commenter's facilities produce molten aluminum, aluminum sow and/or aluminum ingot. The commenter stated that facilities that produce sow and/or ingot by pouring molten aluminum from furnaces, holders or meters into molds are not and should not be subject to the proposed rule because they are not ''aluminum foundries.'' The commenter noted that the sows and ingots produced by these facilities are not complex shapes nor are they used in processes that require specific mechanical properties, machinability, and/or corrosion resistance. According to the commenter, the sows and ingots are used in processes as the raw aluminum metal that is melted and then cast into complex shapes for use in processes requiring the listed properties, and the company does not produce aluminum castings.

Response: The facility described by the commenter that melts scrap metal and cast molten metal to produce sows, ingots, or billets is a secondary aluminum production facility and is not an aluminum foundry as defined by this rule. We have clarified in the final rule's definitions that a foundry casts complex shapes rather than sow and ingot (*see,* for example, definition for ''aluminum foundry'' in section 63.11556), and we have stated explicitly in the definitions for aluminum foundry, copper foundry and other nonferrous foundry that the definitions do not include secondary metal production.

Comment: Another commenter stated that as currently written, questions of applicability will arise as to how the rules apply to area sources that may include both types of operations (aluminum foundry casting and secondary aluminum production). According to the commenter, most secondary aluminum production facilities conduct ''casting'' operations directly after the melting of aluminum scrap and notes that the proposal's preamble provides some explanatory language by describing production operations for aluminum and other nonferrous foundry casting operations as those that ''produce complex metal shapes by melting the metal in a furnace and pouring the molten metal into a mold to solidify into the desired shape.'' The commenter said that this contrasts only slightly with ''casting'' for other secondary aluminum production facilities where the metal is formed or molded into simple shapes, such as ingots, sows or billets for shipping or further processing.

The commenter said the proposal does not address the nuances of these different casting operations and therefore does not provide the regulated community with sufficient notice regarding the rule's applicability and what is needed to comply with the rule, and in addition, the rule is subject to misinterpretation by permit authorities. To address these issues, the commenter asked that the rule be revised to make clear which MACT rule (40 CFR part 63 CFR subpart RRR or subpart ZZZZZZ) takes precedence for particular operations where interpretations of applicability may conflict. The commenter said that given the confusion witnessed frequently with permit authorities addressing implementation and compliance for the secondary aluminum production MACT rules, this necessity is even more pronounced. The commenter requested that the rule be revised and that EPA provide an appropriate definition for the term ''aluminum castings'' and also use the term ''aluminum castings'' in the definition for ''melting operations'' in section 63.11556.

Response: The facilities that cast molten metal to produce sows, ingots, or billets are secondary metal producers and are not foundries covered by this rule (*see* definition of aluminum foundry in section 63.11556). Secondary metal producers do not produce complex castings that are final or near final products, but instead produce a metal product that is a simple shape that is shipped to other facilities (including foundries) where it is re-melted and transformed into final product. We have revised the definitions in the final rule to make a clearer distinction between secondary metal production (such as secondary aluminum facilities that are subject to 40 CFR part 63, subpart RRR) and aluminum foundries. We do not believe there is any conflict or overlap with subpart RRR because that rule does not regulate metal HAP emissions from aluminum foundries as this rule does. It is possible for an aluminum foundry to be subject to both rules, but there would be no overlap in the requirements because the two rules apply to different HAP.

Comment: One commenter asked that EPA clarify that 40 CFR part 63 subpart RRR sources are not included in this NESHAP. The commenter stated that there may be confusion because, in subpart RRR (the NESHAP for secondary aluminum production facilities), EPA included certain area sources in that major source rule. According to the commenter, in the secondary aluminum production rule, EPA determined that furnaces, including area sources, melting clean charge, internal scrap, runaround scrap, or customer returns are not subject to the requirements of Subpart RRR because the use of clean charge materials results in sufficiently low emissions. Therefore, the commenter requested that furnaces melting clean charge, internal scrap, runaround scrap or other customer returns that are area sources subject to 40 CFR part 63 subpart RRR (but excluded from the requirements) also be excluded from applicability of this rule because EPA has already considered the emissions from these furnaces in subpart RRR.

Another commenter seeks clarification on aluminum foundry source category applicability relative to the secondary aluminum MACT standards. The commenter stated the language in the proposal preamble addressing the source category change from secondary aluminum production to aluminum foundries is confusing and appears to be subject to potentially conflicting interpretations. According to the commenter, the language can be interpreted to mean that the secondary aluminum production source category, for which there are existing MACT standards under 40 CFR part 63 subpart RRR, has been changed. The commenter said this distinction is of particular importance since the secondary aluminum production MACT standards also apply in part to area sources.

Response: This rule, subpart ZZZZZZ, does not apply to secondary aluminum production facilities, including those secondary aluminum production facilities that are area sources. Furthermore, EPA did not intend any overlap or conflict between 40 CFR part 63 subpart RRR and this rule. Certain types of area source aluminum foundries are subject to a dioxin emission limit under subpart RRR, but subpart RRR has no metal HAP or PM emission limits that would apply to these area sources. Consequently, there are no aluminum foundries that can be addressed solely by subpart RRR, and this foundry area source rule (40 CFR part 63 subpart ZZZZZZ) is necessary to regulate the metal HAP emissions from aluminum foundries.

The change in the source category name in this rule does not change the source category name for secondary aluminum plants subject to subpart RRR. The effect of the change in name is to list aluminum foundries as an area source category for which standards must be developed, and to remove secondary aluminum facilities as a source category for which standards must be developed. We explained in the proposal preamble, 74 FR 6511, that we incorrectly named the ''Secondary

Aluminum Production'' category in the area source category listing notice, and the emissions used in the listing were from aluminum foundries (*see also* the EPA memorandum cited in the proposal preamble, dated November 26, 2002, which explains this error at Docket ID No. EPA–HQ–OAR–2008–0236, Item 0011).

Comment: One commenter stated his plant produces beryllium-copper alloys, copper alloys that do not contain beryllium, and beryllium alloys that do not contain copper. The commenter noted that his plant is subject to the NESHAP ambient air quality standard for beryllium, which is set forth in 40 CFR part 61.32(b). The commenter requested that EPA clarify that the proposed rule for copper and other nonferrous foundries does not apply to his facility because it is already subject to part 61 due to emissions of beryllium. The commenter requested that EPA expressly state in the preamble to the final rule that facilities currently subject to part 61 are not covered by the proposed copper and other nonferrous foundry rule. To make this clear in the rule itself, the commenter suggested that EPA exempt any foundries located at a facility that produces beryllium and/or beryllium alloys and is covered by 40 CFR part 61.32 through 61.34 which coverage, of course, mandates title V permitting for that facility.

Another commenter asked for clarification on whether their facility would be classified as a ''foundry'' and subject to the rule since the facility melts copper scrap in a gas-fired melting furnace and is a metal powder producer with main product lines consisting of copper, bronze and tin powders.

Response: The information supplied by the commenters indicates that these facilities may be secondary metal production facilities that do not cast the molten metal into complex shapes that are final products. As discussed in response to an earlier comment, we have clarified the distinction between foundries and secondary metal producers. We cannot state in the preamble and rule that these facilities are not subject to the rule, and any questions related to applicability should be discussed with the permitting authority (*i.e.,* the State agency if delegated or the EPA regional office if not delegated). In response to the comment about already being subject to a part 61 standard, we confirm that it is possible for an area source to be subject to both a part 61 standard and an area source standard.

Comment: One commenter asked how ''nonferrous'' is defined or interpreted by EPA and whether it is reasonable to infer that ''nonferrous'' excludes any iron-containing metal (*e.g.,* nickel alloy containing 10 percent iron would be considered ferrous). Another commenter stated that because many foundries that pour nonferrous metals also pour ferrous metal alloys in the same building, it should be emphasized that this rule is not intended to apply to ferrous alloys and suggested that the word ''nonferrous'' should be added before the word ''material'' in the definition of ''material containing copper foundry HAP.''

Response: The types of facilities described by the commenters are nonferrous foundries if they melt any nonferrous metals (other than copper or aluminum or copper based alloys) unless their melting operations have been identified as a ferrous melting operation that is subject to the area source standard for iron and steel foundries (40 CFR part 63, subpart ZZZZZ). The other nonferrous foundry (*i.e.,* other than copper and aluminum foundries) source category is comprised of facilities identified under NAICS 331528, Other Nonferrous Foundries (except Die-Casting): ''This U.S. industry comprises establishments primarily engaged in pouring molten nonferrous metals (except aluminum and copper) into molds to manufacture nonferrous castings (except aluminum die-castings, nonferrous (except aluminum) die-castings, aluminum castings, and copper castings). Establishments in this industry purchase nonferrous metals, such as nickel, lead, and zinc, made in other establishments.'' Examples are foundries (excluding die casting) melting zinc and zinc-base alloys, nickel and nickel-base alloys (including ferrous metal), magnesium and magnesium-base alloys. However, we have not defined the different types of foundries by NAICS because a facility could have multiple types of foundries and NAICS. We specifically define aluminum, copper, and other nonferrous foundry in the rule, and a nonferrous foundry could be co-located with an iron and steel foundry.

Comment: One commenter stated that the proposed definition of ''copper foundry'' should be revised to exclude primary copper smelters, refineries and stand-alone rod mills. The commenter stated that EPA should make clear that the definition does not include the melting of copper (scrap copper, anode copper or cathode copper) at primary copper smelters and refineries, and pouring into casting machines to produce anode copper, copper rod and cake.

Response: EPA has revised the definition of copper foundry, stating that ''this definition does not include primary or secondary metal producers that cast molten copper to produce simple shapes such as sows, ingots, billets, bars, anode copper, rods or copper cake.''

D. Management Practices

1. Purchased Scrap Requirements

Comment: One commenter stated that the rule provides that aluminum, copper, and other nonferrous foundry area sources that are subject to the rule shall ''purchase only metal scrap that has been depleted (to the extent practicable) of aluminum foundry HAP, copper foundry HAP, or other nonferrous foundry HAP (as applicable) in the materials charged to the melting furnace.'' Because foundries also charge ingots, sow, alloys and other ''clean charge'' materials into the melting furnace, the commenter said that EPA should clarify that this provision also includes these materials. According to the commenter, in purchasing these materials, a foundry may have content specification for its casting application and product that should be sufficient to meet the ''deplete'' criterion of this management practice, and other references to ''metal scrap'' should be broadened to include these ''compliant'' clean charge materials.

Another commenter quoted the proposed rule as stating that foundries are to ''purchase only metal scrap that has been depleted (to the extent practicable) of * * * HAP.'' Because the specifications of many nonferrous alloys contain metallic HAP, the commenter recommends the rule be changed to state ''excluding metallic HAP that are required to be added for the production of alloyed castings.''

One commenter recommended the HAP content requirement for melting metal scrap be deleted or substantially modified to avoid a domestic prohibition against recycling valuable metal scrap. The commenter stated that the proposal requires that covered foundries purchase ''only metal scrap that has been depleted (to the extent practicable)'' of the identified HAP, but said that this purchase requirement is vague and the word ''deplete'' is not defined. The commenter said that it is important for EPA to make this clarification to avoid the risk that the depletion requirement will be spuriously interpreted as prohibiting the remelting of scrap that contains HAP in excess of low levels or even trace amounts because it would mean that some metal scrap could only be buried

or exported for remelting outside the U.S. The commenter noted that the proposal recognizes the importance of recycling by providing that the management practice requires the use of scrap depleted of HAP metals except where the scrap is purchased specifically for its HAP metal content for use in alloying. The commenter asked that this provision be broadened by changing the phrase ''for use in alloying'' to ''for use in the production of metal or alloys.'' According to the commenter, this change is appropriate and needed because metal HAP in scrap can be valuable in the production of a metal as well as of an alloy.

One commenter recommended that EPA amend definitions in the proposed rule to align the applicability with subpart RRR. The commenter stated that the preamble to the rule indicates that GACT is considered the use of ''clean charge'' but, rather than defining that term, EPA requires that affected sources purchase or use only metal scrap that has been ''depleted of HAP metals (to the extent practicable) charged to the melting furnace.'' According to the commenter, EPA does not clearly define clean charge or explain what it means to deplete material of HAP metals ''to the extent practicable.'' The commenter is concerned that the definition of ''depleting to the extent practicable'' could change over time, leading to the proposed standard becoming a moving target for sources. Moreover, the commenter is concerned that internal scrap, which is permissible to use under subpart RRR, continue to be usable without any additional conditions under this proposed rule. To that end, the commenter requests that EPA revise the definition of ''material containing aluminum foundry HAP'' to clarify that clean charge, internal scrap, runaround scrap, and customer returns do not fall within that definition.

The commenter recommended adding this sentence to the definition: ''For purposes of this subpart the following materials are not material containing aluminum foundry HAP—clean charge, internal scrap, runaround scrap, or customer returns, as defined in § (section) 63.1503.'' The commenter said another way of addressing this concern would be to clarify in section 63.11550 that use of clean charge, internal scrap, runaround scrap, or customer returns as defined in section 63.1503 of subpart RRR, constitutes compliance with the requirements of this rule by adding this sentence: ''Purchase or use of clean charge, internal scrap, runaround scrap, or customer returns, as defined in § 63.1503 constitutes compliance with the requirement of this subparagraph to deplete a material of aluminum foundry HAP.''

Response: Our intent was that purchased metal scrap be depleted to the extent practicable of HAP contaminants, except when the HAP metal is an important specified component in the final casting. We did not intend for this provision to apply to ingots, sows, and alloys (they are not metal scrap), nor did we intend it to apply to internal scrap, runaround scrap, and customer returns (they are not purchased). We have clarified the final rule by stating that the provisions relating to the purchase of only metal scrap do not apply to ''material that is not scrap (*e.g.,* ingots, alloys, sows) or to materials that are not purchased (*e.g.,* internal scrap, customer returns)''.

We acknowledged at proposal that certain types of scrap metal containing HAP were necessarily purchased to meet alloy specifications. We have clarified the management practices in the final rule that purchased metal scrap must be depleted to the extent practicable of HAP metals except when the HAP metal is needed to meet specifications for the casting. We have also added a recordkeeping requirement for documentation that the HAP metal is in the specifications for the cast metal product.

Comment: One commenter suggested that EPA eliminate records for ''use'' and focus solely on ''purchase.'' The commenter said the proposed rule requires facilities to purchase only metal scrap that has been depleted to the extent practicable of the relevant HAP. However, the commenter notes that the recordkeeping and labeling requirements in the proposed rule refer to ''purchase and use'' of such scrap. The commenter is concerned that the insertion of the word ''use'' might be misread to require tracking of use after metal enters the facility even though he understands that not to be EPA's intent. The commenter said that EPA has appropriately determined that this aspect of the standard should apply at the point of purchase (*i.e.,* entry to the facility) as the most effective way of assessing compliance and, after that point, the ''usage'' is not relevant to compliance. The commenter recommends that EPA delete the word ''use,'' or if that word is to remain, change the phrasing to ''purchase for use.''

Response: We revised the reporting requirements to be consistent with the management practice provision, which stated ''purchase only metal scrap * * *,'' by deleting the words ''and use'' in the reporting requirements as suggested by the commenter.

Comment: One commenter requested that EPA clarify that the alloy exception for purchased scrap in section 63.11550(a)(2) also applies to nickel or other HAP.

Response: The exception for ''metal scrap that is purchased specifically for its HAP metal content for use in alloying'' (alloy exception) applies to any aluminum foundry HAP, copper foundry HAP and other nonferrous foundry HAP.

Comment: One commenter stated that the rule has a potentially adverse effect upon the beneficial reuse of metal scrap and asked that EPA consider not imposing the scrap purchase requirement upon those furnaces which are subject to the PM emission and control efficiency requirements. According to the commenter, these highly-controlled and closely-monitored furnaces are where EPA should most strongly encourage the melting of metal scrap and that EPA can encourage this practice by exempting these furnaces from the scrap purchase requirement and their attendant burdens. The commenter said that EPA can appropriately do so because these furnaces are the ones that are subject to the additional emission and control efficiency requirements, which make the scrap purchase requirement redundant and therefore unnecessary.

Response: Our analysis indicated that the management practices in the proposed rule represent GACT for all furnaces, even for those melting furnaces equipped with efficient emission controls. We expect careful attention to purchasing scrap metal, which has been depleted to the extent practicable of HAP metals that are not needed in the final casting, and use of covers during melting will reduce emissions at all melting operations. Consequently, we are requiring the use of management practices, including the limitations on scrap metal, at all of the affected sources, even if the furnaces are equipped with control devices for PM and metal HAP.

2. Covers

Comment: One commenter recommended the following revision to the requirement to use covers:

> Cover or enclose each melting furnace that is equipped with a cover or enclosure during the melting operation to the extent practicable (*e.g.,* except for standard foundry operating practices such as when access is needed for charging, alloy addition, tapping, ladling, fluxing, slagging/drossing, temperature measurement, observation).

The commenter also asked that EPA make clear that this parenthetical list of practices is illustrative, and is not meant to be exclusive or limiting in any way. The commenter suggested it would be helpful to have an additional example to address the situation in which a cover-closing mechanism fails and the cover must remain open, or partially open, until maintenance can be performed within a reasonable period. As an example, the commenter said one copper foundry reported that it would be impractical to cover and uncover a melting furnace continually for its permanent mold operations that ladles the metal into molds as many as 35 times in an hour.

One commenter stated that the rule should be revised to clarify requirements during periods that cover-closing mechanisms fail. The commenter said that occasionally the closing mechanism on a cover will jam, requiring maintenance to correct the problem, and these periods should be included as times during which it is not practicable to close the cover.

Another commenter suggested adding to the rule other examples of opening a cover on the melting furnace and to state that other examples include, but may not be limited to, ramming, scraping, fluxing, slagging, sampling, and temperature taking.

Response: The commenter correctly quoted the proposed rule, but we believe the commenter misreads the management practices requirements and that the term ''to the extent practicable'' addresses the concerns raised by the commenters. We cannot include every possibility in the rule of when it might be necessary to not use the cover. However, we have added the phrase ''including but not limited to'' to the examples in the rule to indicate that the list is not all inclusive.

3. Other Management Practices

Comment: One commenter said that foundries subject to the proposed regulation are required to prepare and operate pursuant to a written management practices plan and that the plan must include the management practices required by the rule, as well as ''any other management practices that are implemented at the facility to minimize emissions from melting furnaces.'' The commenter stated that foundries that implement additional management practices to minimize emissions from melting furnaces should not have additional regulatory requirements imposed on them through the written management plan because a foundry that implements an additional management practice that results in reduced emissions from the melting furnace could be penalized if the practice is not included in the written management practices plan. The commenter believes such a result is unreasonable, and instead EPA should change the regulatory language to state that a facility may include additional management practices that minimize emissions from melting furnaces in the written management practices plan.

Response: We proposed to require the use of two management practices. We are finalizing those management practices in this rule, and they must be in the management practices plan. Although owners and operators can include additional requirements in their management practices plan, they are not required to do so by this rule. If, however, additional management practices are included in the plan, the owner or operator could be held responsible for them to the extent they are not followed. *See* section 11550(a)(3) in the final rule.

E. Definitions

Comment: One commenter requested that EPA add a definition of ''deviation'' for purposes of this rule so it is clear to sources when they need to report. Because this is an area source rule, the commenter believes that sources may not be subject to part 70 and, in any event, may not be familiar with deviation reporting, and that EPA should explain that a deviation occurs if the facility fails to meet applicable standards.

Response: We agree that a definition of ''deviation'' is needed, and we have added the definition that has been used in other NESHAP, such as the area source standard for iron and steel foundries (40 CFR 63, subpart ZZZZZ).

Comment: Two commenters stated that EPA should clearly define in the rule that the affected source is a ''melting operation.'' The commenters stated that the affected source is defined in the preamble as ''* * * foundry melting operations (including all the various types of melting furnaces at the affected foundry) * * *'' However, the commenters said that the affected source does not appear to be defined within the rule.

Response: We agree that the rule language should specify what the affected source is, and we have stated directly in the final rule that the affected source is the collection of all melting operations at the facility.

Comment: One commenter asked to see clearer distinctions in the rule between the requirements for ''large'' foundries (above 6,000 tpy), ''small'' foundries (less than 6,000 tpy, but above 600 tpy actual), and ''exempt'' foundries (below 600 tpy actual).

Response: We have clarified the final rule, as the commenter suggested, and inserted definitions for ''large'' and ''small'' foundries that are subject to different requirements. It is important to recognize, however, that foundries with an annual metal melt production less than 600 tpy in calendar year 2010 are not exempted from the rule, but rather these foundries are not included in the source category, as discussed above in Section VI.B., and, therefore, not subject to the management practices, recordkeeping and other requirements of this final rule. In addition, it is also important to note that these rule requirements will not apply to these foundries so long as their production after calendar year 2010 remains below 600 tpy.

Comment: One commenter suggested that EPA add a definition of ''die casting'' to the rule to help clarify what operations are not applicable to the rule and asked that EPA also clarify the applicability of permanent mold casting, including ''low pressure permanent mold casting'' and ''vacuum permanent mold casting'' operations.

Another commenter asked for clarification of applicability when melting furnaces for die casting operations, which are not part of the source category, are co-located with aluminum, copper or other nonferrous foundry melting furnaces that are included in the source category. This commenter also requested a definition of ''die casting.'' The commenter also stated that it would be helpful for EPA to define ''aluminum die casting operations,'' and, for clarity, to make a conforming change to its definition of ''aluminum foundry'' using this defined term. The commenter suggested a modified version of the NAICS definition: ''aluminum die casting operations mean operations included under the Standard Industrial Classification code 3363 and NAICS 331521. For purposes of this subpart, aluminum die casting operations includes low-pressure injection and high-pressure injection die casting process methods'' and ''aluminum foundry means a ''facility that melts aluminum and pours molten aluminum into molds to manufacture aluminum castings (except aluminum die casting operations).''

Response: We agree that ''die casting'' should be defined and have done so in the final rule using the NAICS definition, which specifically states ''under high pressure'' and does not include ''under low pressure,'' as suggested by the commenter. With

regard to co-located operations, if melting operations for die casting and other types of casting are co-located, melting operations dedicated to die casting are not subject to this rule. However, melting operations that serve both types of casting operations are subject to the rule.

In response to the clarification on permanent mold casting, the rule applies to facilities using permanent mold casting because it is not die casting.

F. Monitoring, Reporting and Recordkeeping

Comment: Two commenters noted that records must identify the date and time of each melting operation; however, many foundries do not record this level of detail and are not configured to record this level of detail. In addition, the commenter said the benefit of such recordkeeping detail is not apparent and requested that EPA remove the requirement for recording the time of each melt event.

Two commenters requested that the reporting and recordkeeping be simplified and not required on a per melt basis. The commenter stated that his facility is subject to title V permitting requirements, and that the proposal's monitoring, recordkeeping and reporting requirements are based on EPA's expectation that the furnaces being regulated would not be subject to title V permit requirements. The commenter believes that overlaying the proposal's requirements on his plant would produce a complexity and added costs without any added benefits and stated that this is why EPA has proposed to exempt these foundries from title V permitting.

Another commenter claimed that demonstrating compliance with this management practice can also be unnecessarily burdensome because the rule states that a foundry ''must keep records to document conformance with the management practice plan'' and that the records ''must identify each melting furnace equipped with a cover or enclosure, the date and time of each melting operation, and that the procedures in the management practices plan were followed for each melting operation.'' According to the commenter, this recordkeeping requirement is too onerous for area source foundries, so much so that some foundries could be forced to have one full-time employee dedicated to this single regulatory requirement.

As proposed, the commenter said this requirement would be a serious disincentive for foundries to have covers or enclosures on their melting furnaces, because melting furnaces that are not equipped with covers and enclosures are in compliance with this management practice and have no recordkeeping requirements at all. The commenter continued by saying that such a result is counterproductive, and regulations should provide foundries with incentives to install covers and enclosures rather than adding regulatory burdens to those that already have them installed. The commenter recommended that EPA streamline the recordkeeping requirement for covers and enclosures to state that the facility shall demonstrate that it follows the standard foundry operating practices for covers and enclosures that are included in its written management practices plan.

If EPA adopts the proposed approach discussed above, two commenters asked that EPA clarify that records of each time the furnace is opened and charged are not required because the proposed rule is ambiguous on this point. An alternative approach suggested by the commenter would be to require monthly inspections to verify that the covers are closed at the appropriate times during the melting operations. According to the commenter, given that sources already have a strong incentive to close covers on furnaces during operations due to OSHA and energy conservation concerns, a periodic check of operations is certainly sufficient to provide an assurance of compliance.

One commenter was concerned that sources will be required to record and report deviations from the recordkeeping requirements even though the covers were likely closed. According to the commenter, even with EPA's suggestion that checklists can be used, at a facility that does not have an extensive staff, an operator may fail to ''check the box'' even though the operator is following the good management practice of closing the cover that the facility has always used. The commenter said that these types of deviations may make a facility appear as though it is violating the standard even though it is substantively compliant. The commenter stated that a monthly inspection approach, on the other hand, will avoid this paperwork issue while still ensuring that facilities routinely comply with the rule. The commenter provided specific recommendations for revising the proposed rule language to address their recordkeeping concerns.

Response: After considering the numerous comments on the burden of the proposed recordkeeping requirements, we agree that the requirements can be streamlined and still be effective. Based on the comments provided, EPA agrees that the burden to record the time of each melting operation and document that the management practices for covers were followed for each melting operation may require significant additional labor to implement. We have revised the rule to require that the owner or operator inform their appropriate operating personnel of the applicable management practices, perform monthly inspections to ensure that they are being followed, and maintain records documenting conformance with the management practices plan. The rule no longer requires records for the time of each melting operation and documentation that covers were used during each melt.

Comment: One commenter suggested that EPA consider a notification for copper and other nonferrous foundries to determine their production level above or below the 6,000 tpy threshold because such a notification would help to clarify which foundries are subject to the applicable emissions limits and monitoring requirements.

Response: We have revised the rule to require sources to indicate whether they are a small or a large foundry in the Notification of Compliance report.

Comment: One commenter said that EPA appears to be requiring all new sources equipped with a fabric filter to install, operate, and maintain a bag leak detection system, but that does not appear to be consistent with rule development documents contained within the docket. The commenter asked that EPA clarify that only new affected sources at copper foundries or other nonferrous foundries that melt 6,000 tpy or greater of metal would be required to operate bag leak detection systems.

Response: We have made a minor revision to the rule to further clarify that only new affected sources at a large foundry, defined as a copper or other nonferrous foundry with an annual copper and other nonferrous metal melt capacity of 6,000 tpy or greater, would be required to install and operate bag leak detection systems. Owners or operators of existing affected sources are not required to install a bag leak detection system, although they could choose to install one as a method of monitoring in lieu of visual emission observations.

Comment: Two commenters requested clarification on the proposed regulatory language that the monitoring requirements in section 63.11552 are applicable only to copper and other nonferrous foundries subject to the PM emissions limits and that have emissions controlled with a fabric filter. Other commenters said that the

proposed regulation states that a foundry subject to this provision ''must conduct visible monitoring of the monovent or fabric filter outlet stack(s) for any visible emissions.'' The commenters request that EPA clarify this provision because the term ''monovent'' is not common to the metal casting industry, and one commenter recommended deleting the term altogether, or if it is kept, it should be defined. One commenter also said that if this requirement is to monitor VE from a stack associated with a melting furnace, then the reference to ''monovent or fabric filter outlet stack(s)'' is too limiting because it does not include other add-on control or point source discharge options for copper and other nonferrous foundries. The commenter requests that EPA clarify this provision to specify the point of monitoring for VE. The commenter noted that the proposed regulation provides further confusion with the reference to ''fugitive emissions,'' which is not consistent with the requirements discussed above that require monitoring of VE from outlet stacks.

One commenter stated the monitoring requirements contain language regarding the observance of ''visible fugitive emissions'' relative to visual monitoring and requires visual monitoring of a monovent or fabric filter outlet stack(s) for any VE. The commenter stated since it appears that the intent is to require visual monitoring of the outlet of a baghouse, the use of the term ''fugitive'' would not be appropriate based on the definition of ''fugitive emissions.''

Response: We have clarified the VE monitoring requirements in the final rule to address the commenters' concerns. If an owner or operator of a large copper or other nonferrous foundry with an existing melting operation chooses to meet the PM standards using fabric filters, then the owner or operator must conduct VE monitoring. Monitoring the VE is a method to ensure that the fabric filters used to control PM emissions operate properly on a continuing basis. The VE monitoring is required only for fabric filters at existing large foundries (*i.e.,* copper or other nonferrous foundries that melt 6,000 tpy or more of material containing a copper foundry or other nonfoundry HAP collectively). In the alternative, owners or operators may install a bag leak detection system on the fabric filter system as a way of ensuring that it is operating correctly. We have deleted the term ''fugitive emissions'' and ''monovent'' from the monitoring requirements and revised the rule to require that the owner or operator must look at the discharge point(s) of the fabric filter for any VE. Depending on the type and configuration of the fabric filter, the discharge point(s) could be a single stack, multiple stacks, monovent, or other location.

Comment: One commenter stated that the rule should not be more restrictive than the existing individual State permits in regard to VE and recommended that EPA change the language in the rule that says ''if the visual monitoring reveals the presence of any VE * * *'', to replace the term ''any'' with ''abnormal.''

Response: Based on our historical experience and the precedent used in other rules (*e.g.,* the area source standard for ferroalloys in 40 CFR part 63, subpart YYYYYY), a properly designed and operated fabric filter will not release any VE under normal operating conditions. The use of the term ''abnormal'' suggests that some VE are acceptable. We continue to require that the fabric filter outlet (discharge) be observed for any VE, and if VE are observed, corrective action should be taken to repair the cause of the emissions.

Comment: One commenter said that the proposed regulations provide that a facility subject to daily VE monitoring can switch to weekly VE monitoring after 90 consecutive days of no VE recorded. The commenter stated that demonstrating no VE for 5 consecutive days should be sufficient to allow weekly VE monitoring because that period of time would show that the fabric filter had been properly designed and had no VE. The commenter claimed that generally if VE are not observed in a 5 consecutive day period, then VE are unlikely to be observed at all (based on the minimal operational changes that are expected from most foundries). According to the commenter, weekly VE monitoring is also less burdensome on the foundry and would, in most cases, provide adequate safeguards that the baghouse is functioning properly.

Response: We have reconsidered the requirement that an owner or operator must conduct daily observations with no VE for 90 consecutive days of monitoring prior to reducing the observation frequency to weekly, and we agree that a shorter time period before reducing to weekly observations would be just as effective. We have revised the final rule to allow weekly observations after 30 consecutive days of observations with no VE because it provides assurance that the baghouse has been properly designed and properly installed as shown by 30 consecutive days of operation with no visible leaks.

Comment: One commenter stated that the time for taking corrective action in response to a bag leak detection alarm must be increased for reasons of worker safety and environmental protection. The commenter stated the proposal requires that covered foundries ''must initiate procedures to determine the cause at every alarm from a bag leak detection system within 1 hour of the alarm and alleviate the cause of the alarm within 3 hours by taking whatever corrective actions are necessary,'' and longer times for initiating and taking corrective action are authorized by the proposal ''if you identify in the monitoring plan this specific condition as one that would lead to an alarm'' and ''adequately explain why it is not feasible to alleviate this condition within 3 hours.'' The commenter believes these requirements fail to account for the conditions under which baghouses operate in foundries and to demand perfect forseeability to avoid violations. He noted that baghouses in foundries operate at extremely high temperatures, and baghouse alarms may occur when metal is being melted or when molten metal is being cast. According to the commenter, the billet and the furnace must cool sufficiently before the baghouse compartment can be safely entered. Also, according to the commenter, stringent company protocols for inspecting and replacing bags typically require that collectors cool for 24 to 72 hours after a furnace is shut down before entry into the collector is permitted. The commenter does not believe that it is productive in its monitoring plan to attempt to predict the entire universe of ''specific conditions'' that may trigger the alarm and to ''adequately explain'' why it is not feasible to complete all of the necessary corrective actions within 3 hours.

According to another commenter, these time frames are totally unrealistic and inappropriate for copper and other nonferrous foundries because most, if not all, of these foundries are small businesses and do not always have a fulltime employee dedicated solely to environmental compliance. The commenter said that, while identifying the cause of an emissions occurrence and taking steps to address it in a timely fashion is desirable, more realistic time frames for responding are necessary. The commenter suggested that EPA consider a more realistic requirement, such as a facility must take steps to identify the cause within 24 hours and must take steps to alleviate the cause within 72 hours.

Response: We disagree with the commenter that the corrective action response requirements should be revised to provide more time. EPA has applied these same corrective action time frames in the monitoring requirements for several similar source categories, and we are not aware of any implementation problems. The bag leak detection requirements include a provision, as the commenter noted, to provide more time when there are extenuating circumstances or conditions. It is appropriate that these conditions be identified in the monitoring plan. An owner or operator should consider amending its monitoring plan to account for events that it subsequently learns require longer time periods for correction.

Similar to bag leak detection alarms, we agree that there may be occasions when the cause of VE cannot be corrected within 3 hours. We have revised the rule to incorporate a provision that parallels that of the bag leak detection requirement. The new provision requires that the owner or operator identify in a monitoring plan the specific conditions that would lead to VE and adequately explain why it is not feasible to alleviate this condition within 3 hours.

Comment: One commenter said EPA details bag leak detection system installation, operation, and maintenance requirements for new affected sources equipped with a fabric filter and requires existing facilities subject to section 63.11551(b) to prepare and submit an operation and maintenance plan for control devices other than fabric filters. The commenter asked that EPA consider requiring all affected sources subject to the emission limits in section 63.11550(b), including existing sources that are not required to install a bag leak detection system, to prepare and operate according to an operation and maintenance plan for each control device. Additionally, the commenter asked that EPA also consider requiring affected sources subject to emission limits under section 63.11550(b) to install and maintain each capture and collection system to meet acceptable engineering standards, such as those published by the American Conference of Governmental Industrial Hygienists.

Response: As we stated at proposal, monitoring fabric filters at existing sources for any VE provides assurance that the bags are not leaking and that the fabric filter is performing properly. Corrective action is required if any VE are observed. Consequently, we do not think that the additional monitoring burden recommended by the commenter (preparing an operation and maintenance plan or specifying the standard to which capture and collection systems must be installed) would result in an improvement in emission control. Furthermore, they would impose an additional burden on many small businesses.

Comment: One commenter claimed that EPA provides no technical basis for the ''no VE'' requirement for copper and other nonferrous foundries in the administrative record for this proposed regulation. According to the commenter, without any technical basis or data to support a ''no VE'' requirement for either stack emissions or fugitive emissions, the requirement cannot represent a GACT standard for copper and other nonferrous foundry area sources. The commenter stated that the ''no VE'' requirement is unsubstantiated and inappropriate.

Response: There is not a ''no VE'' requirement; the requirement is to take corrective action if VE are observed from a baghouse because (as discussed above) a properly designed, operated, and maintained baghouse should not have VE. In addition, the observation of VE for baghouses is a baghouse monitoring option that only an existing affected facility may use. In the alternative, an existing affected facility may install and operate a bag leak detection system as a way of monitoring the proper operation of its baghouses. Monitoring requirements are not GACT; rather, they are based on monitoring certain parameters that would indicate that the control device (*e.g.,* a baghouse) is operating properly. It is well established that if VE occur from a baghouse that is used on the exhaust of a melting furnace, then there is a problem with the baghouse (*e.g.,* leaks or tears in the fabric). This monitoring option was previously used in the area source standard developed for ferroalloy furnaces (40 CFR Part 63, subpart YYYYYY), and we proposed it in this rule as a monitoring option for baghouses used on the exhausts of melting furnaces. As mentioned earlier, a facility has the option of monitoring with a bag leak detection system if there is a particular reason they do not want to monitor for VE.

G. Testing Requirements

Comment: One commenter noted that many of the existing emission control devices that will be subject to the PM emission limit may require significant physical modification in order to conduct the testing in accordance with the test protocols, and these modifications will substantially increase the cost of the testing, but will not affect the performance of the control device. The commenter stated that in some cases the ductwork modifications will have to be removed after the test is completed. The commenter estimates that as many as 95 percent of the affected control devices may never have been tested based primarily on the fact that the State permitting agency did not feel that such testing was necessary. Given the alternate emission limit of grains per dry standard cubic feet specified within the rule, the commenter believes that VE observations at the outlet of the baghouse provides adequate assurance that the fabric filter is performing in accordance with the rule. The commenter also stated that many State permitting authorities have already adopted VE observations as the only monitoring. The commenter recommended that the area source rule allow an affected facility to use observance of VE as an acceptable method of demonstrating compliance.

The commenter continued by stating that if EPA disagrees with the above recommendation, then EPA should amend the 5-year period for which the results of a prior performance test can be used to demonstrate compliance. The commenter recommended that any existing affected facility that has performed stack tests, regardless of when those tests may have been performed, should be able to use the results to document compliance with the rule as long as the facility is able to provide copies of the maintenance records documenting volume tests, filter changes, and general maintenance done to the equipment upon request.

One commenter operates a brass foundry that voluntarily installed baghouse controls for the melting and pouring operations at the foundry about 17 years ago to capture the metal fume emissions, and currently there are nine separate baghouse modules with a common fan and inlet, but nine individual discharge stacks of which none are testable. The commenter considers the cost to build and test each of these stacks to be an economic hardship for his facility for what he believes to be zero environmental gain.

The commenter stated that manufacturers of baghouse modules like the ones currently in operation at this facility will guarantee new units to meet an outlet particulate concentration of 0.015 gr/dscf for the melting operation. Based on this, the commenter said that an alternative compliance method could be to inspect the system for leaks using accepted visual inspection methods, and such inspections could be done by third party consultants at a more acceptable cost to show that the filters

have been properly installed and functioning as they were intended.

The commenter also stated that broken bag detectors might be used to show both the initial compliance and add a layer of security to the long term leak detection of the emission control system. According to the commenter, broken bag detectors for this system would not be inexpensive, but would likely be a much lower cost than to build and test nine stacks. The commenter said that this facility has over time found a steady state operating range for its fume control system, and by monitoring the cleaning cycle frequency, can detect the slightest system change or failure and react to fix the problem at the start of the failure. The commenter asked that this use of innovative technology should be considered as an acceptable compliance tool.

The commenter said this facility has already installed the emission control for foundry melting operations, but believes that the cost of testing to show compliance is too high for his facility. The commenter asked if ''no VE'' criteria could be used as acceptable compliance method for facility emissions.

Response: We understand the commenters' concerns regarding the costs to conduct the compliance tests; however, we have defined GACT for the affected facilities to include a PM emission limit, and compliance with this limit must be demonstrated by compliance testing. We agree that testing all nine stacks is not necessary if the melting operation and expected emissions are similar across the stacks. We revised the rule to allow the owner or operator to perform the performance testing on one or more representative stacks with the approval of the Administrator or his or her authorized representative (*e.g.,* a State that has been delegated authority to implement and enforce this rule). The owner or operator must provide data or an adequate explanation why the stack(s) chosen for testing are representative. We note that testing contractors have methods and procedures to make a baghouse ''testable,'' such as adding a temporary stack extension to a short stack to meet Method 5 criteria. However, we did not revise the requirements for the use of prior test results to allow tests that may have been conducted long ago, perhaps when the baghouse was first installed, and continue to limit the use of prior tests to the preceding 5 years from the compliance date. We are concerned that testing performed more than 5 years from the compliance date, which is beyond the term of a typical operating permit, would not be representative of current operation.

Comment: One commenter stated that the requirement that the facility ''must operate each melting furnace within +/− 10 percent of the normal process rate'' during the performance test is not consistent with some State requirements for performance testing and requested that EPA consider regulatory language that allows for an alternate method that is approved by another permitting authority.

Response: We agree that the testing requirement discussed by the commenter may not be consistent with requirements in existing permits and may not be appropriate in all cases. We deleted this testing requirement from the final rule and note that the requirements for conducting performance tests are already addressed in the applicable General Provisions (section 63.7(e)(1)), which specify that performance tests be ''based on representative performance (*i.e.,* performance based on normal operating conditions) of the affected source.''

H. Exemption From Title V Permitting Requirements

Comment: Several commenters agreed with the proposed title V permit exemption, noting such factors as the adequacy of existing State programs to ensure compliance, the additional economic and other burdens imposed by title V permitting, and the lack of technical resources to comply with permitting requirements for facilities that are mostly small businesses support the exemption.

Response: We acknowledge the commenters' support for the exemption from title V permitting requirements in this rule.

Comment: One commenter argued that the agency's proposal to exempt the three area source categories from title V requirements is unlawful and arbitrary. The commenter states that section 502(a) of the CAA authorizes EPA to exempt area source categories from title V permitting requirements if the Administrator finds that compliance with such requirements is ''impracticable, infeasible or unnecessarily burdensome.'' 42 U.S.C. section 7661a(a). The commenter notes that EPA did not claim that title V requirements are impracticable or infeasible for any of the source categories it proposes to exempt, but that EPA instead relied entirely on its claim that title V would be ''unnecessarily burdensome.''

Response: Section 502(a) of the CAA states, in relevant part, that:

* * * [t]he Administrator may, in the Administrator's discretion and consistent with the applicable provisions of this chapter, promulgate regulations to exempt one or more source categories (in whole or in part) from the requirements of this subsection if the Administrator finds that compliance with such requirements is impracticable, infeasible, or unnecessarily burdensome on such categories, except that the Administrator may not exempt any major source from such regulations. *See* 42 U.S.C. section 7661a(a).

The statute plainly vests the Administrator with discretion to determine when it is appropriate to exempt non-major (*i.e.,* area) sources of air pollution from the requirements of title V. The commenter correctly notes that EPA based the proposed exemptions solely on a determination that title V is ''unnecessarily burdensome,'' and did not rely on whether the requirements of title V are ''impracticable'' or ''infeasible'', which are alternative bases for exempting area sources from title V.

To the extent the commenter is asserting that EPA must determine that all three criteria in CAA section 502 are met before an area source category can be exempted from title V, the commenter misreads the statute. The statute expressly provides that EPA may exempt an area source category from title V requirements if EPA determines that the requirements are ''impracticable, infeasible *or* unnecessarily burdensome.'' *See* CAA section 502 (*emphasis added*). If Congress had wanted to require that all three criteria be met before a category could be exempted from title V, it would have stated so by using the word ''and,'' in place of ''or''.

Comment: One commenter stated that in order to demonstrate that compliance with title V would be ''unnecessarily burdensome,'' EPA must show, among other things, that the ''burden'' of compliance is *unnecessary.* According to the commenter, by promulgating title V, Congress indicated that it viewed the burden imposed by its requirements as necessary as a general rule. The commenter maintained that the title V requirements provide many benefits that Congress viewed as necessary. Thus, in the commenter's view, EPA must show why, for any given category, special circumstances make compliance unnecessary. The commenter believed that EPA has not made that showing for any of the categories it proposes to exempt.

Response: EPA does not agree with the commenter's characterization of the demonstration required for determining that title V is unnecessarily burdensome for an area source category. As stated

above, the CAA provides the Administrator discretion to exempt an area source category from title V if he determines that compliance with title V requirements is ''impracticable, infeasible, or unnecessarily burdensome'' on an area source category. *See* CAA section 502(a). In December 2005, in a national rulemaking, EPA interpreted the term ''unnecessarily burdensome'' in CAA section 502 and developed a four-factor balancing test for determining whether title V is unnecessarily burdensome for a particular area source category, such that an exemption from title V is appropriate. *See* 70 FR 75320, December 19, 2005 (''Exemption Rule''). In addition to interpreting the term ''unnecessarily burdensome'' and developing the four-factor balancing test in the Exemption Rule, EPA applied the test to certain area source categories.

The four factors that EPA identified in the Exemption Rule for determining whether title V is unnecessarily burdensome on a particular area source category include: (1) Whether title V would result in significant improvements to the compliance requirements, including monitoring, recordkeeping, and reporting, that are proposed for an area source category (70 FR 75323); (2) whether title V permitting would impose significant burdens on the area source category and whether the burdens would be aggravated by any difficulty the sources may have in obtaining assistance from permitting agencies (70 FR 75324); (3) whether the costs of title V permitting for the area source category would be justified, taking into consideration any potential gains in compliance likely to occur for such sources (70 FR 75325); and (4) whether there are implementation and enforcement programs in place that are sufficient to assure compliance with the NESHAP for the area source category, without relying on title V permits (70 FR 75326).[4]

In discussing the above factors in the Exemption Rule, we explained that we considered on ''a case-by-case basis the extent to which one or more of the four factors supported title V exemptions for a given source category, and then we assessed whether considered together those factors demonstrated that compliance with title V requirements would be 'unnecessarily burdensome' on the category, consistent with section 502(a) of the Act.'' *See* 70 FR 75323. Thus, we concluded that not all of the four factors must weigh in favor of exemption for EPA to determine that title V is unnecessarily burdensome for a particular area source category. Instead, the factors are to be considered in combination and EPA determines whether the factors, taken together, support an exemption from title V for a particular source category.

The commenter asserts that ''EPA must show * * * that the ''burden'' of compliance is unnecessary.'' This is not, however, one of the four factors that we developed in the Exemption Rule in interpreting the term ''unnecessarily burdensome'' in CAA section 502, but rather a new test that the commenter maintains EPA ''must'' meet in determining what is ''unnecessarily burdensome'' under CAA section 502. EPA did not re-open its interpretation of the term ''unnecessarily burdensome'' in CAA section 502 in the February 9, 2009 proposed rule for the categories at issue in this rule. Rather, we applied the four-factor balancing test articulated in the Exemption Rule to the source categories for which we proposed title V exemptions. Had we sought to re-open our interpretation of the term ''unnecessarily burdensome'' in CAA section 502 and modify it from what was articulated in the Exemption Rule, we would have stated so in the February 9, 2009 proposed rule and solicited comments on a revised interpretation, which we did not do. Accordingly, we reject the commenter's attempt to create a new test for determining what constitutes ''unnecessarily burdensome'' under CAA section 502, as that issue falls outside the purview of this rulemaking.[5]

Moreover, were the comment framed as a request to reopen our interpretation of the term ''unnecessarily burdensome'' in CAA section 502, which it is not, we would deny such request because we have a court-ordered deadline to complete this rulemaking by June 15, 2009. In any event, although the commenter espouses a new interpretation of the term ''unnecessarily burdensome'' in CAA section 502 and attempts to create a new test for determining whether the requirements of title V are ''unnecessarily burdensome'' for an area source category, the commenter does not explain why EPA's interpretation of the term ''unnecessarily burdensome'' is arbitrary, capricious or otherwise not in accordance with law. We maintain that our interpretation of the term ''unnecessarily burdensome'' in section 502, as set forth in the Exemption Rule, is reasonable.

Comment: One commenter stated that exempting a source category from title V permitting requirements deprives both the public generally and individual members of the public who would obtain and use permitting information from the benefit of citizen oversight and enforcement that Congress plainly viewed as necessary. According to the commenter, the text and legislative history of the CAA provide that Congress intended ordinary citizens to be able to get emissions and compliance information about air toxics sources and to be able to use that information in enforcement actions and in public policy decisions on a State and local level. The commenter stated that Congress did not think that enforcement by States or other government entities was enough; if it had, Congress would not have enacted the citizen suit provisions, and the legislative history of the CAA would not show that Congress viewed citizens' access to information and ability to enforce CAA requirements as highly important both as an individual right and as a crucial means to ensuring compliance. According to the commenter, if a source does not have a title V permit, it is difficult or impossible—depending on the laws, regulations and practices of the State in which the source operates—for a member of the public to obtain relevant information about its emissions and compliance status. The commenter stated that likewise, it is difficult or impossible for citizens to bring enforcement actions. The commenter continued that EPA does not claim—far less demonstrate with substantial evidence, as would be required—that citizens would have the same ability to obtain compliance and emissions information about sources in the categories it proposes to exempt *without* title V permits. The commenter also said that likewise, EPA does not claim—far less demonstrate with substantial evidence—that citizens would have the same enforcement ability. Thus, according to the commenter, the

[4] In the Exemption Rule, in addition to determining whether compliance with title V requirements would be unnecessarily burdensome on an area source category, we considered, consistent with the guidance provided by the legislative history of section 502(a), whether exempting the area source category would adversely affect public health, welfare or the environment. *See* 72 FR 15254–15255, March 25, 2005. As shown above, after conducting the four-factor balancing test and determining that title V requirements would be unnecessarily burdensome on the area source categories at issue here, we examined whether the exemption from title V would adversely affect public health, welfare and the environment, and found that it would not.

[5] If the commenter objected to our interpretation of the term ''unnecessarily burdensome'' in the Exemption Rule, it should have commented on, and challenged, that rule. Any challenge to the Exemption Rule is now time barred by CAA section 307(b). Although we received comments on the title V Exemption Rule during the rulemaking process, no one sought judicial review of that rule.

exemptions EPA proposes plainly eliminate benefits that Congress thought necessary. The commenter claimed that to justify its exemptions, EPA would have to show that the informational and enforcement benefits that Congress intended title V to confer—benefits which the commenter argues are eliminated by the exemptions—are for some reason unnecessary with respect to the categories it proposes to exempt. The commenter concluded that EPA does not even *acknowledge* these benefits of title V, far less explain why they are unnecessary, and that for this reason alone, EPA's proposed exemptions are unlawful and arbitrary.

Response: Once again, the commenter attempts to create a new test for determining whether the requirements of title V are ''unnecessarily burdensome'' on an area source category. Specifically, the commenter argues that EPA does not claim or demonstrate with *substantial evidence* that citizens would have the same access to information and the same ability to enforce under these NESHAP, absent title V. The commenter's position represents a significant revision of the fourth factor that EPA developed in the Exemption Rule in interpreting the term ''unnecessarily burdensome'' in CAA section 502. For all of the reasons explained above, the commenter's attempt to create a new test for EPA to meet in determining whether title V is ''unnecessarily burdensome'' on an area source category cannot be sustained. This rulemaking did not re-open EPA's interpretation of the term ''unnecessarily burdensome'' in CAA section 502. EPA reasonably applied the four factors to the facts of the three source categories at issue in this rule, and the commenter has not identified any flaw in EPA's application of the four factor test to the three area source categories at issue here.

Moreover, as explained in the proposal, we considered implementation and enforcement issues in the fourth factor of the four-factor balancing test. Specifically, the fourth factor of EPA's unnecessarily burdensome analysis provides that EPA will consider whether there are implementation and enforcement programs in place that are sufficient to assure compliance with the NESHAP without relying on title V permits. *See* 70 FR 75326.

In applying the fourth factor here, EPA determined that there are adequate enforcement programs in place to assure compliance with the CAA. As stated in the proposal, we believe that State-delegated programs are sufficient to assure compliance with the NESHAP and that EPA retains authority to enforce this NESHAP under the CAA. *See* 74 FR 6521. We also indicated that States and EPA often conduct voluntary compliance assistance, outreach, and education programs to assist sources and that these additional programs will supplement and enhance the success of compliance with this NESHAP. *See* 74 FR 6521. The commenter does not challenge the conclusion that there are adequate State and Federal programs in place to ensure compliance with and enforcement of the NESHAP. Instead, the commenter provides an unsubstantiated assertion that information about compliance by the area sources with these NESHAP will not be as accessible to the public as information provided to a State pursuant to title V. In fact, the commenter does not provide any information that States will treat information submitted under these NESHAP differently than information submitted pursuant to a title V permit.

Even accepting the commenter's assertions that it is more difficult for citizens to enforce the NESHAP absent a title V permit, which we dispute, in evaluating the fourth factor in EPA's balancing test, EPA concluded that there are adequate implementation and enforcement programs in place to enforce the NESHAP. The commenter has provided no information to the contrary or explained how the absence of title V actually impairs the ability of citizens to enforce the provisions of these NESHAP. Furthermore, the fourth factor is one factor that we evaluated in determining if the title V requirements were unnecessarily burdensome. As explained above, we considered that factor together with the other factors and determined that it was appropriate to finalize the proposed exemptions for the area source categories at issue in this rule.

Comment: One commenter explained that title V provides important monitoring benefits, and, according to the commenter, EPA assumes that title V monitoring would not add any monitoring requirements beyond those required by the regulations for each category. The commenter said that in its proposal EPA proposed to require ''management practices currently used at most facilities is GACT for all foundries in each of the three source categories. 74 Fed. Reg. at 6520.'' The commenter further states that ''EPA argues that its proposed standard, by including these practices, provides monitoring in the form of recordkeeping that would 'assure compliance' with the requirements of the proposed rule. *Id.* at 6521.'' The commenter maintains that EPA made conclusory assertions and that the Agency failed to provide any evidence to demonstrate that the proposed monitoring requirements will assure compliance with the NESHAP for the exempt sources. The commenter stated that, for this reason as well, its claim that title V requirements are ''unnecessarily burdensome'' is arbitrary and capricious, and its exemption is unlawful and arbitrary and capricious.

Response: As noted in the earlier comment, EPA used the four-factor test to determine if title V requirements were unnecessarily burdensome. In the first factor, EPA considers whether imposition of title V requirements would result in significant improvements to the compliance requirements that are proposed for the area source categories. *See* 70 FR 75323. It is in the context of this first factor that EPA evaluates the monitoring, recordkeeping and reporting requirements of the proposed NESHAP to determine the extent to which those requirements are consistent with the requirements of title V. *See* 70 FR 75323.

The commenter asserts that ''EPA argues that its proposed standard, including these practices, 'provides monitoring in the form of recordkeeping that will assure compliance with the requirements of the proposed rule.' '' The commenter has taken a phrase from the preamble out of context to imply that EPA has only required monitoring in the form of recordkeeping. In the proposal, we stated:

> EPA is proposing that a PM emission limit based on the use of fabric filters is GACT for copper and other nonferrous foundries melting 6,000 tpy or more of metal, and that management practices currently used at most facilities is GACT for all foundries in each of the three source categories. This proposed rule would require daily (or weekly) VE determinations for existing sources, bag leak detection system for new sources, recordkeeping, and deviation reporting to assure compliance with this NESHAP. The monitoring component of the first factor favors title V exemption because this proposed standard would provide for monitoring that assures compliance with the requirements of the proposed rule. For existing sources located at copper or other nonferrous foundries processing 6,000 tpy or more of total metal, this proposed NESHAP would set an emission limit that would require the use of a PM control system (*i.e.,* fabric filter) with daily VE determinations. For new and existing sources located at aluminum, copper, or nonferrous foundries, the proposed NESHAP would require management practices to control emissions from melting furnaces. For the management practices, recordkeeping would be required to assure that the management practices are implemented, such as the use of covers or

enclosures during melting and the purchase and use of materials that have been depleted (to the extent practicable) of aluminum foundry HAP, copper foundry HAP, and other nonferrous foundry HAP.

See 74 FR 6520.

We nowhere state or imply that the only monitoring required for the rule is in the form of recordkeeping. As the above excerpt states, we required periodic monitoring, *i.e.,* inspection for VE, of emission control devices for existing affected sources and continuous monitoring, *i.e.,* bag leak detection system, for new affected sources when the rule requires the installation of such controls. This monitoring is in addition to the recordkeeping that serves as monitoring for the management practices. For the final rule, we have added a requirement for monthly inspections to assure that the management practices are being implemented. The commenter does not provide any evidence that contradicts the conclusion that the proposed monitoring requirements are sufficient to assure compliance with the standards in the rule.

Based on the foregoing, we considered whether title V monitoring requirements would lead to significant improvements in the monitoring requirements in the proposed NESHAP and determined that they would not. We believe that the monitoring, recordkeeping and reporting requirements in this area source rule can assure compliance.

For the reasons described above and in the proposed rule, the first factor supports exempting these three area source categories from title V requirements. Assuming, for arguments sake, that the first factor alone cannot support the exemption, the four-factor balancing test requires EPA to examine the factors in combination and determine whether the factors, viewed together, weigh in favor of exemption. *See* 70 FR 75326. As explained above, we determined that the factors, weighed together, support exemption of the area source categories from title V.

Comment: One commenter believes that EPA cannot justify exempting the source from title V by asserting that compliance with title V requirements poses a significant burden. According to the commenter, regardless of whether EPA regards the burden as ''significant,'' the Agency may not exempt a category from compliance with title V requirements unless compliance is ''unnecessarily burdensome.'' Or in the commenter's words, that ''the compliance burden is especially great.'' The commenter stated that in any event, EPA's claims about the alleged burden of compliance is entirely conclusory and could be applied equally to any major or area source category; therefore, the commenter claims that EPA has not justified why these three sources should be exempt from title V permitting as opposed to any other category.

Response: As we have stated before, we found the burden placed on these sources in complying with the title V requirements is unnecessarily burdensome when we applied the four-factor balancing test. We did not re-open EPA's interpretation of the term ''unnecessarily burdensome'' in this rule. As explained above, we maintain that the Agency's interpretation of the term ''unnecessarily burdensome,'' as set forth in the Exemption Rule and reiterated in the proposal to this rule, is reasonable.

In applying the four-factor test, we properly analyzed the second factor, *i.e.,* will title V permitting impose a significant burden on the area source, and will that burden be aggravated by any difficulty that the source may have in obtaining assistance from the permitting agency. *See* 70 FR 75320. EPA found that the sources would have a significant burden because we estimated that the average cost of obtaining and complying with a title V permit in general was $65,700 per source for a 5-year permit period. Id. In addition, EPA estimates that more than 300 of the affected sources would need to get a title V permit, absent the exemption finalized in the rule. In addition, EPA found that 98 percent of the sources affected by the rule are small businesses, most with fewer than 50 employees and about 25 percent or more with only one to four employees. Small businesses, such as most all of the foundries in these three source categories, often lack the technical resources to comply with the permitting requirements and the financial resources needed to hire the necessary staff or outside consultants. EPA found that not only is the individual cost of permitting significant for these source categories (*i.e.,* $65,700), but also the cost to the source categories as a whole is significant. Furthermore, given the number of affected sources in these three categories (*i.e.,* more than 300), it would likely be difficult for them to obtain assistance from the permitting authorities. These specific factors for the affected sources alone justify that EPA has properly exempted the source categories from title V. However, as discussed in the proposal and above, EPA analyzed all of the four factors in making its determination that these sources should be exempt from title V permitting requirements; and we found that the totality of these factors weighs heavily in favor of the exemption.

Therefore, we disagree with the commenter's assertion that EPA's finding (*i.e.,* that the burden of obtaining a title V permit is significant does not equate to the required finding that the burden is unnecessary) is misplaced. While EPA could have found that the second factor alone could justify the exemption, EPA found that the other three factors also support exempting the sources from the title V requirements because the permitting requirements are unnecessarily burdensome for these three source categories. We also disagree with the commenter that EPA has not provided a source-specific analysis that the burden for these three source categories is unnecessarily burdensome.

Comment: According to one commenter, EPA argued that compliance with title V would not yield any gains in compliance with underlying requirements in the relevant NESHAP (74 FR 6521). The commenter stated that EPA's conclusory claim could be made equally with respect to any major or area source category. According to the commenter, the Agency provides no specific reasons to believe—with respect to any of the categories it proposes to exempt—that the additional informational, monitoring, reporting, certification, and enforcement requirements that exist in title V, but not in these NESHAP, would not provide additional compliance benefits. The commenter also stated that the only basis for EPA's claim is, apparently, its beliefs that those additional requirements never confer additional compliance benefits. According to the commenter, by advancing such argument, EPA merely seeks to elevate its own policy judgment over Congress' decisions reflected in the CAA's text and legislative history.

Response: The commenter takes out of context certain statements in the proposed rule concerning the factors used in the balancing test to determine if imposition of title V permit requirements is unnecessarily burdensome for the source categories. The commenter also mischaracterizes the first of the four-factor balancing test with regard to determining whether imposition of title V would result in significant improvements in compliance. In addition, the commenter mischaracterizes the analysis in the third factor of the balancing test which instructs EPA to take into account any gains in compliance that would result from the imposition of the title V requirements.

First, EPA nowhere states, nor does it believe, that title V never confers

additional compliance benefits as the commenter asserts. While EPA recognizes that requiring a title V permit offers additional compliance options, the statute provides that EPA must assess whether compliance with title V would be unnecessarily burdensome to the specific area source. For the three source categories subject to this rulemaking, EPA concluded that requiring title V permits would be unnecessarily burdensome.

Second, the commenter mischaracterizes the first factor by asserting that EPA must demonstrate that title V will provide no additional compliance benefits. The first factor calls for a consideration of ''whether title V would result in significant improvements to the compliance requirements, including monitoring, recordkeeping, and reporting, that are proposed for an area source category.'' Thus, contrary to the commenter's assertion, the inquiry under the first factor is not whether title V will provide any compliance benefit, but rather whether it will provide significant improvements in compliance requirements.

EPA feels that the monitoring, recordkeeping and reporting requirements in the rule are sufficient to assure compliance with the requirements of this rule and are sufficient to allow the public the opportunity to obtain knowledge about the source, consistent with the goal in title V permitting. For example, in the Initial Notification, the source must identify its size, whether it must meet any of the GACT requirements in the rule, and how it plans to comply with the rule requirements. The source must also certify how it is complying and that it has complied with the requirements to institute the management practices, to establish recordkeeping to demonstrate compliance with the management practices, to install controls, if necessary, to establish monitoring of the controls as required, and to establish recordkeeping regarding the inspections of the controls and any corrective actions taken as a result of seeing any visual monitoring. *See* § 63.11553 in the final rule. These two reports are available to the public once the source has filed them with the permitting agency. The source must also keep records and conduct inspections to document that it is complying with the management practices finalized in this rule. *See* § 63.11553 in the final rule. The source must monitor and record the VE from the PM control, if applicable, must begin corrective action and record the specifics about the corrective action upon seeing any VE from the control. The source must also submit deviation reports to the permitting agency every 6 months if there has been a deviation in the requirements of the rule. *See* § 63.11553 in the final rule. Again, these deviation reports are available to the public once the source has submitted them to the permitting agency. EPA believes that these requirements in the rule itself, including the requirement to provide information about the source's compliance that is available to the public, provide sufficient basis to ensure compliance, and does not feel that the title V requirements, if applicable to these sources, would offer significant improvements in the compliance of the sources with the rule.

Third, the commenter incorrectly characterizes our statements in the proposed rule concerning our application of the third factor. Under the third factor, EPA evaluates ''whether the costs of title V permitting for the area source category would be justified, taking into consideration any potential gains in compliance likely to occur for such sources.'' Contrary to what the commenter alleges, EPA did not state in the proposed rule that compliance with title V would not yield any gains in compliance with the underlying requirements in the relevant NESHAP, nor does factor three require such a determination.

Instead, consistent with the third factor, we considered whether the costs of title V are justified in light of any potential gains in compliance. In other words, EPA must view the costs of title V permitting requirements, considering any improvement in compliance above what the rule requires. EPA reviewed the three area source categories at issue and determined that fewer than 20 of the more than 300 sources that would be subject to the rule currently have a title V permit. As stated in the proposal (74 FR 6521), EPA estimated that the average cost of obtaining and complying with a title V permit was $65,700 per source for a 5-year permit period, including fees. *See* Information Collection Request for Part 70 Operating Permit Regulations, 72 FR 32290, June 12, 2007, EPA ICR Number 1587.07. Based on this information, EPA determined that there is a significant cost burden to the industry to require title V permitting for all the sources subject to the rule. In addition, in analyzing factor one, EPA found that imposition of the title V requirements offers no significant improvements in compliance. In considering the third factor, we stated in part that, ''Because the costs of compliance with title V are so high, and the potential for gains in compliance is low, we are proposing that title V permitting is not justified for these source categories. Accordingly, the third factor supports the proposed title V exemptions for aluminum, copper, and other nonferrous foundries area sources.'' *See* 74 FR 6521.

Most importantly, EPA considered all four factors in the balancing test in determining whether title V was unnecessarily burdensome on the area source categories. EPA found it reasonable after considering all four factors to exempt these three source categories from the permitting requirements in title V. This rulemaking did not re-open EPA's interpretation of the term ''unnecessarily burdensome'' in CAA section 502. Because the commenter's statements do not demonstrate a flaw in EPA's application of the four-factor balancing test to the specific facts of the source categories at issue here, the comments provide no basis for the Agency to reconsider its proposal to exempt the area source categories from title V.

Comment: According to one commenter, ''[t]he agency does not identify any aspect of any of the underlying NESHAP showing that with respect to these specific NESHAP—unlike all the other major and area source NESHAP it has issued without title V exemptions—title V compliance is unnecessary.'' Instead, according to the commenter, EPA merely pointed to existing State requirements and the potential for actions by States and EPA that are generally applicable to all categories (along with some small business and voluntary programs). The commenter said that, absent a showing by EPA that distinguishes the sources it proposes to exempt from other sources, however, the Agency's argument boils down to the generic and conclusory claim that it generally views title V requirements as unnecessary. The commenter stated that, while this may be EPA's view, it was not Congress' view when Congress enacted title V, and a general view that title V is unnecessary does not suffice to show that title V compliance is unnecessarily burdensome.

Response: The commenter again takes issue with the Agency's test for determining whether title V is unnecessarily burdensome, as developed in the Exemption Rule. Our interpretation of the term ''unnecessarily burdensome'' is not the subject of this rulemaking. In any event, as explained above, we believe the Agency's interpretation of the term ''unnecessarily burdensome'' is a reasonable one. To the extent the commenter asserts that our application of the fourth factor is flawed, we

disagree. The fourth factor involves a determination as to whether there are implementation and enforcement programs in place that are sufficient to assure compliance with the rule without relying on the title V permits. In discussing the fourth factor in the proposal, EPA states that prior to delegating implementation and enforcement to a State, EPA must ensure that the State has programs in place to enforce the rule. EPA believes that these programs will be sufficient to assure compliance with the rule. EPA also retains authority to enforce this NESHAP anytime under CAA sections 112, 113 and 114. EPA also noted other factors in the proposal that together are sufficient to assure compliance with this area source.

The commenter argues that EPA cannot exempt these area sources from title V permitting requirements because ''[t]he agency does not identify any aspect of any of the underlying NESHAP showing that with respect to these specific NESHAP—*unlike all the other major and area source NESHAP it has issued without title V exemptions*—title V compliance is unnecessary'' (*emphasis added*). As an initial matter, EPA cannot exempt major sources from title V permitting. 42 U.S.C. 502(a). As for area sources, the standard that the commenter proposes—that EPA must show that ''title V compliance is unnecessary''—is not consistent with the standard the Agency established in the Exemption Rule and applied in the proposed rule in determining if title V requirements are unnecessarily burdensome for the three source categories at issue.

Furthermore, we disagree that the basis for excluding the three area source foundry categories from title V requirements is generally applicable to any source category. As explained in the proposal preamble and above, we balanced the four factors considering the facts and circumstances of the three source categories at issue in this rule. For example, in assessing whether the costs of requiring the sources to obtain a title V permit was burdensome, we concluded that because greater than 90 percent of the sources did not have a title V permit, the costs imposed on the source categories were significant compared to the additional compliance benefits offered by the title V permitting process.

Comment: One commenter stated that the legislative history of the CAA shows that Congress did not intend EPA to exempt source categories from compliance with title V unless doing so would not adversely affect public health, welfare, or the environment. *See* 74 FR 6522. Nonetheless, according to the commenter, EPA does not make any showing that its exemptions would not have adverse impacts on health, welfare and the environment. The commenter stated that, instead, EPA offered only the conclusory assertion that ''the level of control would remain the same'' whether title V permits are required or not (74 FR 6522). The commenter continued by stating that EPA relied entirely on the conclusory arguments advanced elsewhere in its proposal that compliance with title V would not yield additional compliance with the underlying NESHAP. The commenter stated that those arguments are wrong for the reasons given above, and therefore EPA's claims about public health, welfare and the environment are wrong too. The commenter also stated that Congress enacted title V for a reason: to assure compliance with all applicable requirements and to empower citizens to get information and enforce the CAA. The commenter said that those benefits—of which EPA's proposed rule *deprives* the public—would improve compliance with the underlying standards and thus have benefits for public health, welfare and the environment. According to the commenter, EPA has not demonstrated that these benefits are unnecessary with respect to any specific source category, but again simply rests on its own apparent belief that they are never necessary. The commenter concluded that, for the reasons given above, the attempt to substitute EPA's judgment for Congress' is unlawful and arbitrary.

Response: Congress gave the Administrator the authority to exempt area sources from compliance with title V if, in his or her discretion, the Administrator ''finds that compliance with [title V] is impracticable, infeasible, or unnecessarily burdensome.'' *See* CAA section 502(a). EPA has interpreted one of the three justifications for exempting area sources, ''unnecessarily burdensome'', as requiring consideration of the four factors discussed above. EPA applied these four factors to the three foundry area source categories subject to this rule and concluded that requiring title V for these area source categories would be unnecessarily burdensome.

In addition to determining that title V would be unnecessarily burdensome on the area source categories for which we proposed exemptions, as in the Exemption Rule, EPA also considered whether exempting the area source categories would adversely affect public health, welfare or the environment. As explained in the proposal preamble, we concluded that exempting the area source categories at issue in this rule would not adversely affect public health, welfare or the environment because the level of control would be the same even if title V applied. We further explained in the proposal preamble that the title V permit program does not generally impose new substantive air quality control requirements on sources, but instead requires that certain procedural measures be followed, particularly with respect to determining compliance with applicable requirements. The commenter has not provided any information that exemption of these area source categories from title V will adversely affect public health, welfare or the environment.

I. Miscellaneous

Comment: One commenter stated that in order for these rules to be implemented properly, EPA should provide sufficient additional funds to State and local clean air agencies. The commenter said that in recent years, Federal grants for State and local air programs have amounted to only about one-third of what they should be, and budget requests for the last two years have called for additional cuts. According to the commenter, additional area source programs, which are not eligible for title V fees, will require significant increases in resources for State and local air agencies beyond what is currently provided. The commenter claims that without increased funding, some State and local air agencies may not be able to adopt and enforce additional area source rules.

Response: State and local air programs are an important and integral part of the regulatory scheme under the CAA. As always, EPA recognizes the efforts of State and local agencies in taking delegations to implement and enforce CAA requirements, including the area source standards under section 112. We understand the importance of adequate resources for State and local agencies to run these programs; however, we do not believe that this issue can be addressed through today's rulemaking.

EPA today is promulgating standards for the Aluminum, Copper, and Other Nonferrous Foundries area source categories that reflect what constitutes GACT for the Urban HAP for which the source categories were listed. GACT standards are technology-based standards. The level of State and local resources needed to implement these rules is not a factor that we consider in determining what constitutes GACT.

Although the resource issue cannot be resolved through today's rulemaking for

the reason stated above, EPA remains committed to working with State and local agencies to implement this rule. State and local agencies that receive grants for continuing air programs under CAA section 105 should work with their project officer to determine what resources are necessary to implement and enforce the area source standards. EPA will continue to provide the resources appropriated for section 105 grants consistent with the statute and the allotment formula developed pursuant to the statute.

Comment: One commenter noticed that EPA includes beryllium in the metal HAP list for the aluminum foundries but not for copper foundries. Due to beryllium's toxicity, the commenter suggests that beryllium also be added to the copper foundries metal HAP list.

Response: The copper foundries HAP list was based on the 112(k) listing that identified the selected pollutants for each source category. Beryllium was not included in the 112(k) listing for copper foundries, and we are not aware of any copper foundries reporting emissions of beryllium.

Comment: One commenter stated the preamble language was not accurate in the discussion of some copper-based alloys, such as leaded brass, containing up to 3.5 percent lead. The commenter stated many leaded alloys contain more lead than that. The commenter said that ''red brass'' is very common and contains 7 to 8 percent lead, and various industry metal specifications list some types of lead containing alloys up to 27 percent lead.

Response: We appreciate the commenter's information and technical update, and we acknowledge that the provided information is correct.

Comment: One commenter noted what appears to be a typo within section 63.11552(d) of the proposed rule. The reference to sources subject to ''63.11551(b)'' should actually be sources subject to ''63.11550(b).''

Response: We agree with the commenter and made the suggested correction to the final rule.

VII. Impacts of the Final Standards

Existing aluminum, copper, and other nonferrous foundries are currently well controlled, and our final GACT determination reflects such controls. Compared to 1990, when the baseline emissions were established, these sources have improved their level of control and reduced emissions due to State permitting requirements, Occupational Safety and Health Administration (OSHA) regulations (particularly for lead), and actions taken to improve efficiency and reduce costs. We estimate that the only impacts associated with the final rule are the compliance requirements (*i.e.,* monitoring, reporting, recordkeeping, and testing).

Approximately 318 aluminum, copper, and other nonferrous foundries are subject to the final rule and will incur initial one-time costs of $656,000 and a total annualized cost of $638,000/yr (an average of $2,000/yr per plant). The one-time (''first'') costs are for initial notifications; preparing the management practices plan and startup, shutdown, and malfunction plan; and initial performance tests. Recurring annual costs include those for maintaining records and daily visual inspections of fabric filters.

VIII. Statutory and Executive Order Reviews

A. Executive Order 12866: Regulatory Planning and Review

This action is a ''significant regulatory action'' under the terms of Executive Order 12866 (58 FR 51735, October 4, 1993), and is therefore subject to review under the Executive Order.

B. Paperwork Reduction Act

The information collection requirements in this final rule have been submitted for approval to OMB under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* The Information Collection Request (ICR) document prepared by EPA has been assigned EPA ICR No. 2332.02.

The recordkeeping and reporting requirements in this final rule are based on the information collection requirements in EPA's NESHAP General Provisions (40 CFR part 63, subpart A). The recordkeeping and reporting requirements in the General Provisions are mandatory pursuant to section 114 of the CAA (42 U.S.C. 7414). All information other than emissions data submitted to EPA pursuant to the information collection requirements for which a claim of confidentiality is made is safeguarded according to CAA section 114(c) and EPA's implementing regulations at 40 CFR part 2, subpart B.

This final NESHAP requires applicable one-time notifications according to the NESHAP General Provisions. Plant owners or operators are required to prepare and operate by written management practice plans and include compliance certifications for the management practices in their Notifications of Compliance Status. Foundries subject to the emission standards are required to conduct daily VE observations with a reduction to weekly VE observations if VE are not detected after 30 consecutive days of daily observations. Recordkeeping is required to demonstrate compliance with management practices, monitoring, and applicability provisions. The affected facilities are expected to already have the necessary control and monitoring equipment in place and to already conduct much of the required monitoring and recordkeeping activities. Foundries subject to the rule also are required to comply with the requirements for startup, shutdown, and malfunction plans/reports and to submit a compliance report if a deviation occurred during the semiannual reporting period.

The average annual burden for this information collection averaged over the first 3 years of this ICR is estimated to total 7,160 labor hours per year at a cost of approximately $408,855 for the 318 facilities that would be subject to the final rule, or approximately 68 hours per year per facility. No capital/startup costs or operation and maintenance costs are associated with the final rule information collection requirements. No costs or burden hours are estimated for new area source foundries because none is projected for the next 3 years. Burden is defined at 5 CFR 1320.3(b).

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in 40 CFR part 63 are listed in 40 CFR part 9.

C. Regulatory Flexibility Act

The Regulatory Flexibility Act generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the rule would not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions.

For the purposes of assessing the impacts of the final area source NESHAP on small entities, a small entity is defined as: (1) A small business whose parent company meets the Small Business Administration size standards for small businesses found at 13 CFR 121.201 (less than 500 for aluminum, copper, and other nonferrous foundries); (2) a small governmental jurisdiction that is a government of a city, county, town, school district, or special district with a population of less than 50,000;

and (3) a small organization that is any not-for-profit enterprise that is independently owned and operated and is not dominant in its field.

After considering the economic impacts of this final rule on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities. There will not be any significant impacts on new or existing aluminum, copper, or other nonferrous foundries because this final rule will not create any new requirements or burdens other than minimal compliance requirements. This final rule is estimated to impact 318 (of more than 962) area source facilities, 307 of which are small entities. The analysis shows that none of the small entities will incur economic impacts exceeding 1 percent of its revenue. We have determined that small entity compliance costs are expected to be less than 0.05 percent of company sales revenue for all affected plants. Although this final rule will contain requirements for new area sources, EPA does not expect any new aluminum, copper, or other nonferrous foundries to be constructed in the foreseeable future; therefore, EPA did not estimate the impacts for new affected sources.

Although this final rule will not have a significant economic impact on a substantial number of small entities, EPA nonetheless has tried to reduce the impact of this final rule on small entities. The standards represent practices and controls that are common throughout the industry. The standards also require only the essential monitoring, recordkeeping, and reporting needed to verify compliance. The final standards were developed based on information obtained from small businesses in our surveys, consultation with small business representatives, and consultation with industry representatives that are affiliated with small businesses.

D. Unfunded Mandates Reform Act

This final rule does not contain a Federal mandate that may result in expenditures of $100 million or more for State, local, and Tribal governments, in the aggregate, or to the private sector in any one year. This final rule is not expected to impact State, local, or Tribal governments. The nationwide annualized cost of this final rule for affected industrial sources is $638,000/yr. Thus, this final rule is not subject to the requirements of sections 202 and 205 of the Unfunded Mandates Reform Act (UMRA).

This final rule is also not subject to the requirements of section 203 of UMRA because it contains no regulatory requirements that might significantly or uniquely affect small governments. This final rule will not apply to such governments and will not impose any obligations upon them.

E. Executive Order 13132: Federalism

Executive Order 13132 (64 FR 43255, August 10, 1999) requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' are defined in the Executive Order to include regulations that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.''

This final rule does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. This final rule does not impose any requirements on State and local governments. Thus, Executive Order 13132 does not apply to this final rule.

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

This action does not have Tribal implications, as specified in Executive Order 13175 (65 FR 67249, November 9, 2000). This final rule imposes no requirements on Tribal governments; thus, Executive Order 13175 does not apply to this action.

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

Executive Order 13045, ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), applies to any rule that (1) is determined to be ''economically significant,'' as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, EPA must evaluate the environmental health or safety effects of the planned rule on children and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

EPA interprets Executive Order 13045 as applying only to those regulatory actions that are based on health or safety risks, such that the analysis required under section 5–501 of the Executive Order has the potential to influence the regulation. This action is not subject to Executive Order 13045 because it is based solely on technology performance.

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

This action is not a ''significant energy action'' as defined in Executive Order 13211 (66 FR 28355, May 22, 2001) because it is not likely to have a significant adverse effect on the supply, distribution, or use of energy. We have concluded that this final rule will not likely have any significant adverse energy effects because no additional pollution controls or other equipment that consume energy would be required.

I. National Technology Transfer Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (''NTTAA''), Public Law 104–113 (15 U.S.C. 272 note), directs EPA to use voluntary consensus standards (VCS) in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. VCS are technical standards (*e.g.,* materials specifications, test methods, sampling procedures, business practices) that are developed or adopted by voluntary consensus standards bodies. NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable VCS.

This rulemaking involves technical standards. EPA has decided to use ASME PTC 19.10–1981, ''Flue and Exhaust Gas Analyses,'' for its manual methods of measuring the oxygen or carbon dioxide content of the exhaust gas. These parts of ASME PTC 19.10–1981 are acceptable alternatives to EPA Method 3B. This standard is available from the American Society of Mechanical Engineers (ASME), Three Park Avenue, New York, NY 10016–5990.

EPA has also decided to use EPA Methods 1, 1A, 2, 2A, 2C, 2D, 2F, 2G, 3, 3A, 3B, 4, 5, 5D, and 17. Although the Agency has identified 11 VCS as being potentially applicable to these methods cited in this rule, we have decided not to use these standards in this rulemaking. The use of these VCS would have been impractical because

they do not meet the objectives of the standards cited in this rule. The search and review results are in the docket for this rule.

Under section 63.7(f) and section 63.8(f) of Subpart A of the General Provisions, a source may apply to EPA for permission to use alternative test methods or alternative monitoring requirements in place of any required testing methods, performance specifications, or procedures in the final rule and amendments.

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

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

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

K. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801, *et seq.,* as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of Congress and to the Comptroller General of the United States. EPA will submit a report containing this final rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of this final rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2). This final rule will be effective on June 25, 2009.

List of Subjects in 40 CFR Part 63

Environmental protection, Air pollution control, Hazardous substances, Incorporations by reference, Reporting and recordkeeping requirements.

Dated: June 15, 2009.

Lisa P. Jackson,

Administrator.

■ For the reasons stated in the preamble, title 40, chapter I, of the Code of Federal Regulations is amended as follows:

PART 63—[AMENDED]

■ 1. The authority citation for part 63 continues to read as follows:

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

Subpart A—[Amended]

■ 2. Section 63.14 is amended by revising paragraph (i)(1) to read as follows:

§ 63.14 Incorporations by reference.

* * * * *

(i) * * *

(1) ANSI/ASME PTC 19.10–1981, ''Flue and Exhaust Gas Analyses [Part 10, Instruments and Apparatus],'' IBR approved for §§ 63.309(k)(1)(iii), 63.865(b), 63.3166(a)(3), 63.3360(e)(1)(iii), 63.3545(a)(3), 63.3555(a)(3), 63.4166(a)(3), 63.4362(a)(3), 63.4766(a)(3), 63.4965(a)(3), 63.5160(d)(1)(iii), 63.9307(c)(2), 63.9323(a)(3), 63.11148(e)(3)(iii), 63.11155(e)(3), 63.11162(f)(3)(iii) and (f)(4), 63.11163(g)(1)(iii) and (g)(2), 63.11410(j)(1)(iii), 63.11551(a)(2)(i)(C), table 5 to subpart DDDDD of this part, and table 1 to subpart ZZZZZ of this part.

* * * * *

■ 3. Part 63 is amended by adding subpart ZZZZZZ to read as follows:

Subpart ZZZZZZ—National Emission Standards for Hazardous Air Pollutants: Area Source Standards for Aluminum, Copper, and Other Nonferrous Foundries

Applicability and Compliance Dates

Sec.

Standards and Compliance Requirements

Other Requirements and Information

Tables to Subpart ZZZZZZ of Part 63

Subpart ZZZZZZ—National Emission Standards for Hazardous Air Pollutants: Area Source Standards for Aluminum, Copper, and Other Nonferrous Foundries

Applicability and Compliance Dates

§ 63.11544 Am I subject to this subpart?

(a) You are subject to this subpart if you own or operate an aluminum foundry, copper foundry, or other nonferrous foundry as defined in § 63.11556, ''What definitions apply to this subpart?'' that is an area source of hazardous air pollutant (HAP) emissions as defined in § 63.2 and meets the criteria specified in paragraphs (a)(1) through (4) of this section. Once you are subject to this subpart, you must remain subject to this subpart even if you subsequently do not meet the criteria in paragraphs (a)(1) through (4) of this section.

(1) Your aluminum foundry uses materials containing one or more aluminum foundry HAP as defined in § 63.11556, ''What definitions apply to this subpart?''; or

(2) Your copper foundry uses materials containing one or more copper foundry HAP, as defined in § 63.11556, ''What definitions apply to this subpart?''; or

(3) Your other nonferrous foundry uses materials containing one or more other nonferrous foundry HAP, as defined in § 63.11556, ''What definitions apply to this subpart?''; and

(4) Your aluminum foundry, copper foundry, or other nonferrous foundry has an annual metal melt production (for existing affected sources) or an annual metal melt capacity (for new affected sources) of at least 600 tons per year (tpy) of aluminum, copper, and other nonferrous metals, including all associated alloys. You must determine the annual metal melt production and capacity for the time period as described in paragraphs (a)(4)(i) through (iv) of this section. The quantity of ferrous metals melted in iron or steel melting operations and the quantity of nonferrous metal melted in non-foundry melting operations are not included in determining the annual metal melt production for existing affected sources or the annual metal melt capacity for new affected sources.

(i) If you own or operate a melting operation at an aluminum, copper or other nonferrous foundry as of February 9, 2009, you must determine if you are subject to this rule based on your facility's annual metal melt production for calendar year 2010.

(ii) If you construct or reconstruct a melting operation at an aluminum, copper or other nonferrous foundry after February 9, 2009, you must determine if you are subject to this rule based on your facility's annual metal melt capacity at startup.

(iii) If your foundry with an existing melting operation increases production after calendar year 2010 such that the annual metal melt production equals or exceeds 600 tpy, you must submit a written notification of applicability to the Administrator within 30 days after the end of the calendar year and comply within 2 years after the date of the notification.

(iv) If your foundry with a new melting operation increases capacity after startup such that the annual metal melt capacity equals or exceeds 600 tpy, you must submit a written notification of applicability to the Administrator within 30 days after the capacity increase year and comply at the time of the capacity increase.

(b) This subpart applies to each new or existing affected source located at an aluminum, copper or other nonferrous foundry that is an area source as defined by § 63.2. The affected source is the collection of all melting operations located at an aluminum, copper, or other nonferrous foundry.

(c) An affected source is an existing source if you commenced construction or reconstruction of the affected source on or before February 9, 2009.

(d) An affected source is a new source if you commenced construction or reconstruction of the affected source after February 9, 2009.

(e) This subpart does not apply to research or laboratory facilities, as defined in section 112(c)(7) of the Clean Air Act.

(f) You are exempt from the obligation to obtain a permit under 40 CFR part 70 or 40 CFR part 71, provided you are not otherwise required to obtain a permit under 40 CFR 70.3(a) or 40 CFR 71.3(a) for a reason other than your status as an area source under this subpart. Notwithstanding the previous sentence, you must continue to comply with the provisions of this subpart applicable to area sources.

§ 63.11545 What are my compliance dates?

(a) If you own or operate an existing affected source, you must achieve compliance with the applicable provisions of this subpart no later than June 27, 2011.

(b) If you start up a new affected source on or before June 25, 2009, you must achieve compliance with the provisions of this subpart no later than June 25, 2009.

(c) If you start up a new affected source after June 25, 2009, you must achieve compliance with the provisions of this subpart upon startup of your affected source.

Standards and Compliance Requirements

§ 63.11550 What are my standards and management practices?

(a) If you own or operate new or existing affected sources at an aluminum foundry, copper foundry, or other nonferrous foundry that is subject to this subpart, you must comply with the requirements in paragraphs (a)(1) through (3) of this section.

(1) Cover or enclose each melting furnace that is equipped with a cover or enclosure during the melting operation to the extent practicable (*e.g.,* except when access is needed; including, but not limited to charging, alloy addition, and tapping).

(2) Purchase only metal scrap that has been depleted (to the extent practicable) of aluminum foundry HAP, copper foundry HAP, or other nonferrous foundry HAP (as applicable) in the materials charged to the melting furnace, except metal scrap that is purchased specifically for its HAP metal content for use in alloying or to meet specifications for the casting. This requirement does not apply to material that is not scrap (*e.g.,* ingots, alloys, sows) or to materials that are not purchased (*e.g.,* internal scrap, customer returns).

(3) Prepare and operate pursuant to a written management practices plan. The management practices plan must include the required management practices in paragraphs (a)(1) and (2) of this section and may include any other management practices that are implemented at the facility to minimize emissions from melting furnaces. You must inform your appropriate employees of the management practices that they must follow. You may use your standard operating procedures as the management practices plan provided the standard operating procedures include the required management practices in paragraphs (a)(1) and (2) of this section.

(b) If you own or operate a new or existing affected source that is located at a large foundry as defined in § 63.11556, you must comply with the additional requirements in paragraphs (b)(1) and (2) of this section.

(1) For existing affected sources located at a large foundry, you must achieve a particulate matter (PM) control efficiency of at least 95.0 percent or emit no more than an outlet PM concentration limit of 0.034 grams per dry standard cubic meter (g/dscm) (0.015 grains per dry standard cubic feet (gr/dscf)).

(2) For new affected sources located at a large foundry, you must achieve a PM control efficiency of at least 99.0 percent or emit no more than an outlet PM concentration limit of at most 0.023 g/dscm (0.010 gr/dscf).

(c) If you own or operate an affected source at a small foundry that subsequently becomes a large foundry after the applicable compliance date, you must meet the requirements in paragraphs (c)(1) through (3) of this section.

(1) You must notify the Administrator within 30 days after the capacity increase or the production increase, whichever is appropriate;

(2) You must modify any applicable permit limits within 30 days after the capacity increase or the production increase to reflect the current production or capacity, if not done so prior to the increase;

(3) You must comply with the PM control requirements in paragraph (b) of this section no later than 2 years from the date of issuance of the permit for the capacity increase or production increase, or in the case of no permit issuance, the date of the increase in capacity or production, whichever occurs first.

(d) These standards apply at all times.

§ 63.11551 What are my initial compliance requirements?

(a) Except as specified in paragraph (b) of this section, you must conduct a performance test for existing and new sources at a large copper or other nonferrous foundry that is subject to § 63.11550(b). You must conduct the test within 180 days of your compliance date and report the results in your Notification of Compliance Status according to § 63.9(h).

(b) If you own or operate an existing affected source at a large copper or other nonferrous foundry that is subject to § 63.11550(b), you are not required to conduct a performance test if a prior performance test was conducted within the past 5 years of the compliance date using the same methods specified in paragraph (c) of this section and you meet either of the following two conditions:

(1) No process changes have been made since the test; or

(2) You demonstrate to the satisfaction of the permitting authority that the results of the performance test, with or without adjustments, reliably demonstrate compliance despite process changes.

(c) You must conduct each performance test according to the requirements in § 63.7 and the requirements in paragraphs (c)(1) and (2) of this section.

(1) You must determine the concentration of PM (for the concentration standard) or the mass rate of PM in pounds per hour at the inlet and outlet of the control device (for the percent reduction standard) according to the following test methods:

(i) Method 1 or 1A (40 CFR part 60, appendix A–1) to select sampling port locations and the number of traverse points in each stack or duct. If you are complying with the concentration provision in § 63.11550(b), sampling sites must be located at the outlet of the control device and prior to any releases to the atmosphere. If you are complying with the percent reduction provision in § 63.11550(b), sampling sites must be located at the inlet and outlet of the control device and prior to any releases to the atmosphere.

(ii) Method 2, 2A, 2C, 2D, 2F (40 CFR part 60, appendix A–1), or Method 2G (40 CFR part 60, appendix A–2) to determine the volumetric flow rate of the stack gas.

(iii) Method 3, 3A, or 3B (40 CFR part 60, appendix A–2) to determine the dry molecular weight of the stack gas. You may use ANSI/ASME PTC 19.10–1981, ''Flue and Exhaust Gas Analyses'' (incorporated by reference—*see* § 63.14) as an alternative to EPA Method 3B.

(iv) Method 4 (40 CFR part 60, appendix A–3) to determine the moisture content of the stack gas.

(v) Method 5 or 5D (40 CFR part 60, appendix A–3) or Method 17 (40 CFR part 60, appendix A–6) to determine the concentration of PM or mass rate of PM (front half filterable catch only). If you choose to comply with the percent reduction PM standard, you must determine the mass rate of PM at the inlet and outlet in pounds per hour and calculate the percent reduction in PM.

(2) Three valid test runs are needed to comprise a performance test. Each run must cover at least one production cycle (charging, melting, and tapping).

(3) For a source with a single control device exhausted through multiple stacks, you must ensure that three runs are performed by a representative sampling of the stacks satisfactory to the Administrator or his or her delegated representative. You must provide data or an adequate explanation why the stack(s) chosen for testing are representative.

§ 63.11552 What are my monitoring requirements?

(a) You must record the information specified in § 63.11553(c)(2) to document conformance with the management practices plan required in § 63.11550(a).

(b) Except as specified in paragraph (b)(3) of this section, if you own or operate an existing affected source at a large foundry, you must conduct visible emissions monitoring according to the requirements in paragraphs (b)(1) and (2) of this section.

(1) You must conduct visual monitoring of the fabric filter discharge point(s) (outlets) for any VE according to the schedule specified in paragraphs (b)(1)(i) and (ii) of this section.

(i) You must perform a visual determination of emissions once per day, on each day the process is in operation, during melting operations.

(ii) If no VE are detected in consecutive daily visual monitoring performed in accordance with paragraph (b)(1)(i) of this section for 30 consecutive days or more of operation of the process, you may decrease the frequency of visual monitoring to once per calendar week of time the process is in operation, during melting operations. If VE are detected during these inspections, you must resume daily visual monitoring of that operation during each day that the process is in operation, in accordance with paragraph (b)(1)(i) of this section until you satisfy the criteria of this section to resume conducting weekly visual monitoring.

(2) If the visual monitoring reveals the presence of any VE, you must initiate procedures to determine the cause of the emissions within 1 hour of the initial observation and alleviate the cause of the emissions within 3 hours of initial observation by taking whatever corrective action(s) are necessary. You may take more than 3 hours to alleviate a specific condition that causes VE if you identify in the monitoring plan this specific condition as one that could lead to VE in advance, you adequately explain why it is not feasible to alleviate this condition within 3 hours of the time the VE occurs, and you demonstrate that the requested time will ensure alleviation of this condition as expeditiously as practicable.

(3) As an alternative to the monitoring requirements for an existing affected source in paragraphs (b)(1) and (2) of this section, you may install, operate, and maintain a bag leak detection system for each fabric filter according to the requirements in paragraph (c) of this section.

(c) If you own or operate a new affected source located at a large foundry subject to the PM requirements in § 63.11550(b)(2) that is equipped with a fabric filter, you must install, operate, and maintain a bag leak detection system for each fabric filter according to paragraphs (c)(1) through (4) of this section.

(1) Each bag leak detection system must meet the specifications and requirements in paragraphs (c)(1)(i) through (viii) of this section.

(i) The bag leak detection system must be certified by the manufacturer to be capable of detecting PM emissions at concentrations of 1 milligram per actual cubic meter (0.00044 grains per actual cubic foot) or less.

(ii) The bag leak detection system sensor must provide output of relative PM loadings. You must continuously record the output from the bag leak detection system using electronic or other means (*e.g.,* using a strip chart recorder or a data logger).

(iii) The bag leak detection system must be equipped with an alarm system that will sound when the system detects an increase in relative particulate loading over the alarm set point established according to paragraph (c)(1)(iv) of this section, and the alarm must be located such that it can be heard by the appropriate plant personnel.

(iv) In the initial adjustment of the bag leak detection system, you must establish, at a minimum, the baseline output by adjusting the sensitivity (range) and the averaging period of the device, the alarm set points, and the alarm delay time.

(v) Following initial adjustment, you must not adjust the averaging period, alarm set point, or alarm delay time without approval from the Administrator or delegated authority, except as provided in paragraph (c)(1)(vi) of this section.

(vi) Once per quarter, you may adjust the sensitivity of the bag leak detection system to account for seasonal effects, including temperature and humidity, according to the procedures identified in the site-specific monitoring plan required by paragraph (c)(2) of this section.

(vii) You must install the bag leak detection sensor downstream of the fabric filter.

(viii) Where multiple detectors are required, the system's instrumentation and alarm may be shared among detectors.

(2) You must prepare a site-specific monitoring plan for each bag leak detection system. You must operate and maintain each bag leak detection system according to the plan at all times. Each monitoring plan must describe the items in paragraphs (c)(2)(i) through (vi) of this section.

(i) Installation of the bag leak detection system;

(ii) Initial and periodic adjustment of the bag leak detection system, including how the alarm set-point and alarm delay time will be established;

(iii) Operation of the bag leak detection system, including quality assurance procedures;

(iv) How the bag leak detection system will be maintained, including a routine maintenance schedule and spare parts inventory list;

(v) How the bag leak detection system output will be recorded and stored; and

(vi) Corrective action procedures as specified in paragraph (c)(3) of this section.

(3) Except as provided in paragraph (c)(4) of this section, you must initiate procedures to determine the cause of every alarm from a bag leak detection system within 1 hour of the alarm and alleviate the cause of the alarm within 3 hours of the alarm by taking whatever corrective action(s) are necessary. Corrective actions may include, but are not limited to, the following:

(i) Inspecting the fabric filter for air leaks, torn or broken bags or filter media, or any other condition that may cause an increase in PM emissions;

(ii) Sealing off defective bags or filter media;

(iii) Replacing defective bags or filter media, or otherwise repairing the control device;

(iv) Sealing off a defective fabric filter compartment;

(v) Cleaning the bag leak detection system probe, or otherwise repairing the bag leak detection system; or

(4) You may take more than 3 hours to alleviate a specific condition that causes an alarm if you identify in the monitoring plan this specific condition as one that could lead to an alarm, adequately explain why it is not feasible to alleviate this condition within 3 hours of the time the alarm occurs, and demonstrate that the requested time will ensure alleviation of this condition as expeditiously as practicable.

(d) If you use a control device other than a fabric filter for new or existing affected sources subject to § 63.11550(b), you must submit a request to use an alternative monitoring procedure as required in § 63.8(f)(4).

§ 63.11553 What are my notification, reporting, and recordkeeping requirements?

(a) You must submit the Initial Notification required by § 63.9(b)(2) no later than 120 calendar days after June 25, 2009 or within 120 days after the source becomes subject to the standard. The Initial Notification must include the information specified in paragraphs (a)(1) through (3) of this section and may be combined with the Notification of Compliance Status required in paragraph (b) of this section.

(1) The name and address of the owner or operator;

(2) The address (*i.e.,* physical location) of the affected source; and

(3) An identification of the relevant standard, or other requirement, that is the basis of the notification and source's compliance date.

(b) You must submit the Notification of Compliance Status required by § 63.9(h) no later than 120 days after the applicable compliance date specified in § 63.11545 unless you must conduct a performance test. If you must conduct a performance test, you must submit the Notification of Compliance Status within 60 days of completing the performance test. Your Notification of Compliance Status must indicate if you are a small or large foundry as defined in § 63.11556, the production amounts as the basis for the determination, and if you are a large foundry, whether you elect to comply with the control efficiency requirement or PM concentration limit in § 63.11550(b). In addition to the information required in § 63.9(h)(2) and § 63.11551, your notification must include the following certification(s) of compliance, as applicable, and signed by a responsible official:

(1) ''This facility will operate in a manner that minimizes HAP emissions from the melting operations to the extent possible. This includes at a minimum that the owners and/or operators of the affected source will cover or enclose each melting furnace that is equipped with a cover or enclosure during melting operations to the extent practicable as required in 63.11550(a)(1).''

(2) ''This facility agrees to purchase only metal scrap that has been depleted (to the extent practicable) of aluminum foundry HAP, copper foundry HAP, or other nonferrous foundries HAP (as applicable) in the materials charged to the melting furnace, except for metal scrap that is purchased specifically for its HAP metal content for use in alloying or to meet specifications for the casting as required by 63.11550(a)(2).''

(3) ''This facility has prepared and will operate by a written management practices plan according to § 63.11550(a)(3).''

(4) If the owner or operator of an existing affected source at a large foundry is certifying compliance based on the results of a previous performance test: ''This facility complies with § 63.11550(b) based on a previous performance test in accordance with § 63.11551(b).''

(4) This certification of compliance is required by the owner or operator that installs bag leak detection systems: ''This facility has installed a bag leak detection system in accordance with § 63.11552(b)(3) or (c), has prepared a bag leak detection system monitoring plan in accordance with § 63.11552(c), and will operate each bag leak detection system according to the plan.''

(c) You must keep the records specified in paragraphs (c)(1) through (5) of this section.

(1) As required in § 63.10(b)(2)(xiv), you must keep a copy of each notification that you submitted to comply with this subpart and all documentation supporting any Initial Notification or Notification of Compliance Status that you submitted.

(2) You must keep records to document conformance with the management practices plan required by § 63.11550 as specified in paragraphs (c)(2)(i) and (ii) of this section.

(i) For melting furnaces equipped with a cover or enclosure, records must identify each melting furnace equipped with a cover or enclosure and document that the procedures in the management practices plan were followed during the monthly inspections. These records may be in the form of a checklist.

(ii) Records documenting that you purchased only metal scrap that has been depleted of HAP metals (to the extent practicable) charged to the melting furnace. If you purchase scrap metal specifically for the HAP metal content for use in alloying or to meet specifications for the casting, you must keep records to document that the HAP metal is included in the material specifications for the cast metal product.

(3) You must keep the records of all performance tests, inspections and monitoring data required by §§ 63.11551 and 63.11552, and the information identified in paragraphs (c)(3)(i) through (vi) of this section for each required inspection or monitoring.

(i) The date, place, and time of the monitoring event;

(ii) Person conducting the monitoring;

(iii) Technique or method used;

(iv) Operating conditions during the activity;

(v) Results, including the date, time, and duration of the period from the time the monitoring indicated a problem (*e.g.,* VE) to the time that monitoring indicated proper operation; and

(vi) Maintenance or corrective action taken (if applicable).

(4) If you own or operate a new or existing affected source at a small foundry that is not subject to § 63.11550(b), you must maintain records to document that your facility melts less than 6,000 tpy total of copper, other nonferrous metal, and all associated alloys (excluding aluminum) in each calendar year.

(5) If you use a bag leak detection system, you must keep the records specified in paragraphs (c)(5)(i) through (iii) of this section.

(i) Records of the bag leak detection system output.

(ii) Records of bag leak detection system adjustments, including the date and time of the adjustment, the initial bag leak detection system settings, and the final bag leak detection system settings.

(iii) The date and time of all bag leak detection system alarms, and for each valid alarm, the time you initiated corrective action, the corrective action taken, and the date on which corrective action was completed.

(d) Your records must be in a form suitable and readily available for expeditious review, according to § 63.10(b)(1). As specified in § 63.10(b)(1), you must keep each record for 5 years following the date of each recorded action. For records of annual metal melt production, you must keep the records for 5 years from the end of the calendar year. You must keep each record onsite for at least 2 years after the date of each recorded action according to § 63.10(b)(1). You may keep the records offsite for the remaining 3 years.

(e) If a deviation occurs during a semiannual reporting period, you must submit a compliance report to your permitting authority according to the requirements in paragraphs (e)(1) and (2) of this section.

(1) The first reporting period covers the period beginning on the compliance date specified in § 63.11545 and ending on June 30 or December 31, whichever date comes first after your compliance date. Each subsequent reporting period covers the semiannual period from January 1 through June 30 or from July 1 through December 31. Your compliance report must be postmarked or delivered no later than July 31 or January 31, whichever date comes first after the end of the semiannual reporting period.

(2) A compliance report must include the information in paragraphs (e)(2)(i) through (iv) of this section.

(i) Company name and address.

(ii) Statement by a responsible official, with the official's name, title, and signature, certifying the truth, accuracy and completeness of the content of the report.

(iii) Date of the report and beginning and ending dates of the reporting period.

(iv) Identification of the affected source, the pollutant being monitored, applicable requirement, description of deviation, and corrective action taken.

Other Requirements and Information

§ 63.11555 What General Provisions apply to this subpart?

Table 1 to this subpart shows which parts of the General Provisions in §§ 63.1 through 63.16 apply to you.

§ 63.11556 What definitions apply to this subpart?

Terms used in this subpart are defined in the Clean Air Act, in § 63.2, and in this section as follows:

Aluminum foundry means a facility that melts aluminum and pours molten aluminum into molds to manufacture aluminum castings (except die casting) that are complex shapes. For purposes of this subpart, this definition does not include primary or secondary metal producers that cast molten aluminum to produce simple shapes such as sows, ingots, bars, rods, or billets.

Aluminum foundry HAP means any compound of the following metals: beryllium, cadmium, lead, manganese, or nickel, or any of these metals in the elemental form.

Annual copper and other nonferrous foundry metal melt capacity means, for new affected sources, the lower of the copper and other nonferrous metal melting operation capacity, assuming 8,760 operating hours per year or, if applicable, the maximum permitted copper and other nonferrous metal melting operation production rate for the melting operation calculated on an annual basis. Unless otherwise specified in the permit, permitted copper and other nonferrous metal melting operation rates that are not specified on an annual basis must be annualized assuming 24 hours per day, 365 days per year of operation. If the permit limits the operating hours of the melting operation(s) or foundry, then the permitted operating hours are used to annualize the maximum permitted copper and other nonferrous metal melt production rate. The annual copper and other nonferrous metal melt capacity does not include the melt capacity for ferrous metal melted in iron or steel foundry melting operations that are co-located with copper or other nonferrous melting operations or the nonferrous metal melted in non-foundry melting operations.

Annual copper and other nonferrous foundry metal melt production means, for existing affected sources, the quantity of copper and other nonferrous metal melted in melting operations at the foundry in a given calendar year. For the purposes of this subpart, metal melt production is determined on the basis of the quantity of metal charged to the melting operations. The annual copper and nonferrous metal melt production does not include the melt production of ferrous metal melted in iron or steel foundry melting operations that are co-located with copper and other nonferrous melting operations or the nonferrous metal melted in non-foundry melting operations.

Annual metal melt capacity, for new affected sources, means the lower of the aluminum, copper, and other nonferrous metal melting operation capacity, assuming 8,760 operating hours per year or, if applicable, the maximum permitted aluminum, copper, and other nonferrous metal melting operation production rate for the melting operation calculated on an annual basis. Unless otherwise specified in the permit, permitted aluminum, copper, and other nonferrous metal melting operation rates that are not specified on an annual basis must be annualized assuming 24 hours per day, 365 days per year of operation. If the permit limits the operating hours of the melting operation(s) or foundry, then the permitted operating hours are used to annualize the maximum permitted aluminum, copper, and other nonferrous metal melt production rate. The annual metal melt capacity does not include the melt capacity for ferrous metal melted in iron or steel foundry melting operations that are co-located with aluminum, copper, or other nonferrous melting operations or the nonferrous metal melted in non-foundry melting operations.

Annual metal melt production means, for existing affected sources, the quantity of aluminum, copper, and other nonferrous metal melted in melting operations at the foundry in a given calendar year. For the purposes of this subpart, annual metal melt production is determined on the basis of the quantity of metal charged to the melting operations. The annual metal melt production does not include the melt production of ferrous metal melted in iron or steel foundry melting operations that are co-located with

aluminum, copper, or other nonferrous melting operations or the nonferrous metal melted in non-foundry melting operations.

Bag leak detection system means a system that is capable of continuously monitoring relative PM (*i.e.,* dust) loadings in the exhaust of a baghouse to detect bag leaks and other upset conditions. A bag leak detection system includes, but is not limited to, an instrument that operates on triboelectric, light scattering, light transmittance, or other effect to continuously monitor relative PM loadings.

Copper foundry means a foundry that melts copper or copper-based alloys and pours molten copper or copper-based alloys into molds to manufacture copper or copper-based alloy castings (excluding die casting) that are complex shapes. For purposes of this subpart, this definition does not include primary or secondary metal producers that cast molten copper to produce simple shapes such as sows, ingots, billets, bars, anode copper, rods, or copper cake.

Copper foundry HAP means any compound of any of the following metals: lead, manganese, or nickel, or any of these metals in the elemental form.

Deviation means any instance where an affected source subject to this subpart, or an owner or operator of such a source:

(1) Fails to meet any requirement or obligation established by this subpart, including but not limited to any emissions limitation or work practice standard;

(2) Fails to meet any term or condition that is adopted to implement an applicable requirement in this subpart and that is included in the operating permit for any affected source required to obtain such a permit; or

(3) Fails to meet any emissions limitation in this subpart during startup, shutdown, or malfunction, regardless of whether or not such failure is permitted by this subpart.

Die casting means operations classified under the North American Industry Classification System codes 331521 (Aluminum Die-Casting Foundries) and 331522 (Nonferrous (except Aluminum) Die-Casting Foundries) and comprises establishments primarily engaged in introducing molten aluminum, copper, and other nonferrous metal, under high pressure, into molds or dies to make die-castings.

Large foundry means, for an existing affected source, a copper or other nonferrous foundry with an annual metal melt production of copper, other nonferrous metals, and all associated alloys (excluding aluminum) of 6,000 tons or greater. For a new affected source, *large foundry* means a copper or other nonferrous foundry with an annual metal melt capacity of copper, other nonferrous metals, and all associated alloys (excluding aluminum) of 6,000 tons or greater.

Material containing aluminum foundry HAP means a material containing one or more aluminum foundry HAP. Any material that contains beryllium, cadmium, lead, or nickel in amounts greater than or equal to 0.1 percent by weight (as the metal), or contains manganese in amounts greater than or equal to 1.0 percent by weight (as the metal), as shown in formulation data provided by the manufacturer or supplier, such as the Material Safety Data Sheet for the material, is considered to be a material containing aluminum foundry HAP.

Material containing copper foundry HAP means a material containing one or more copper foundry HAP. Any material that contains lead or nickel in amounts greater than or equal to 0.1 percent by weight (as the metal), or contains manganese in amounts greater than or equal to 1.0 percent by weight (as the metal), as shown in formulation data provided by the manufacturer or supplier, such as the Material Safety Data Sheet for the material, is considered to be a material containing copper foundry HAP.

Material containing other nonferrous foundry HAP means a material containing one or more other nonferrous foundry HAP. Any material that contains chromium, lead, or nickel in amounts greater than or equal to 0.1 percent by weight (as the metal), as shown in formulation data provided by the manufacturer or supplier, such as the Material Safety Data Sheet for the material, is considered to be a material containing other nonferrous foundry HAP.

Melting operations (the affected source) means the collection of furnaces (*e.g.,* induction, reverberatory, crucible, tower, dry hearth) used to melt metal ingot, alloyed ingot and/or metal scrap to produce molten metal that is poured into molds to make castings. Melting operations dedicated to melting ferrous metal at an iron and steel foundry are not included in this definition and are not part of the affected source.

Other nonferrous foundry means a facility that melts nonferrous metals other than aluminum, copper, or copper-based alloys and pours the nonferrous metals into molds to manufacture nonferrous metal castings (excluding die casting) that are complex shapes. For purposes of this subpart, this definition does not include primary or secondary metal producers that cast molten nonferrous metals to produce simple shapes such as sows, ingots, bars, rods, or billets.

Other nonferrous foundry HAP means any compound of the following metals: chromium, lead, and nickel, or any of these metals in the elemental form.

Small foundry means, for an existing affected source, a copper or other nonferrous foundry with an annual metal melt production of copper, other nonferrous metals, and all associated alloys (excluding aluminum) of less than 6,000 tons. For a new affected source, *small foundry* means a copper or other nonferrous foundry with an annual metal melt capacity of copper, other nonferrous metals, and all associated alloys (excluding aluminum) of less than 6,000 tons.

§ 63.11557 Who implements and enforces this subpart?

(a) This subpart can be implemented and enforced by the U.S. EPA or a delegated authority, such as your State, local, or Tribal agency. If the U.S. EPA Administrator has delegated authority to your State, local, or Tribal agency, then that agency has the authority to implement and enforce this subpart. You should contact your U.S. EPA Regional Office to find out if this subpart is delegated to your State, local, or Tribal agency.

(b) In delegating implementation and enforcement authority of this subpart to a State, local, or Tribal agency under 40 CFR part 63, subpart E, the authorities contained in paragraph (c) of this section are retained by the Administrator of the U.S. EPA and are not transferred to the State, local, or Tribal agency.

(c) The authorities that will not be delegated to State, local, or Tribal agencies are listed in paragraphs (c)(1) through (4) of this section.

(1) Approval of alternatives to the applicability requirements in § 63.11544, the compliance date requirements in § 63.11545, and the applicable standards in § 63.11550.

(2) Approval of an alternative nonopacity emissions standard under § 63.6(g).

(3) Approval of a major change to a test method under § 63.7(e)(2)(ii) and (f). A ''major change to test method'' is defined in § 63.90(a).

(4) Approval of a major change to monitoring under § 63.8(f). A ''major change to monitoring'' is defined in § 63.90(a).

(5) Approval of a waiver of recordkeeping or reporting requirements

under § 63.10(f), or another major change to recordkeeping/reporting. A ''major change to recordkeeping/reporting'' is defined in § 63.90(a).

§ 63.11558 [Reserved]

Tables to Subpart ZZZZZZ of Part 63

Table 1 to Subpart ZZZZZZ of Part 63—Applicability of General Provisions to Aluminum, Copper, and Other Nonferrous Foundries Area Sources

As required in § 63.11555, ''What General Provisions apply to this subpart?,'' you must comply with each requirement in the following table that applies to you.

Citation	Subject	Applies to subpart ZZZZZZ?	Explanation
§ 63.1(a)(1), (a)(2), (a)(3), (a)(4), (a)(6), (a)(10)–(a)(12), (b)(1), (b)(3), (c)(1), (c)(2), (c)(5), (e).	Applicability	Yes	§ 63.11544(f) exempts affected sources from the obligation to obtain a title V operating permit.
§ 63.1(a)(5), (a)(7)–(a)(9), (b)(2), (c)(3), (c)(4), (d).	Reserved	No.	
§ 63.2	Definitions	Yes.	
§ 63.3	Units and Abbreviations	Yes.	
§ 63.4	Prohibited Activities and Circumvention	Yes.	
§ 63.5	Preconstruction Review and Notification Requirements.	Yes.	
§ 63.6(a), (b)(1)–(b)(5), (b)(7), (c)(1), (c)(2), (c)(5), (e)(1), (e)(3)(i), (e)(3)(iii)–(e)(3)(ix), (f)(2), (f)(3), (g), (i), (j).	Compliance with Standards and Maintenance Requirements.	Yes.	
§ 63.6(f)(1)	Compliance with Nonopacity Emission Standards.	No	Subpart ZZZZZZ requires continuous compliance with all requirements in this subpart.
§ 63.6(h)(1), (h)(2), (h)(5)–(h)(9)	Compliance with Opacity and Visible Emission Limits.	No	Subpart ZZZZZZ does not contain opacity or visible emission limits.
§ 63.6(b)(6), (c)(3), (c)(4), (d), (e)(2), (e)(3)(ii), (h)(3), (h)(5)(iv).	Reserved	No.	
§ 63.7	Applicability and Performance Test Dates	Yes.	
§ 63.8(a)(1), (b)(1), (f)(1)–(5), (g)	Monitoring Requirements	Yes.	
§ 63.8(a)(2), (a)(4), (b)(2)–(3), (c), (d), (e), (f)(6), (g).	Continuous Monitoring Systems	No	Subpart ZZZZZZ does not require a flare or CPMS, COMS or CEMS.
§ 63.8(a)(3)	[Reserved]	No.	
§ 63.9(a), (b)(1), (b)(2)(i)–(iii), (b)(5), (c), (d), (e), (h)(1)–(h)(3), (h)(5), (h)(6), (j).	Notification Requirements	Yes	Subpart ZZZZZZ requires submission of Notification of Compliance Status within 120 days of compliance date unless a performance test is required.
§ 63.9(b)(2)(iv)–(v), (b)(4), (f), (g), (i)		No.	
§ 63.9(b)(3), (h)(4)	Reserved	No.	
§ 63.10(a), (b)(1), (b)(2)(i)–(v), (vii), (vii)(C), (viii), (ix), (b)(3), (d)(1)–(2), (d)(4), (d)(5), (f).	Recordkeeping and Reporting Requirements.	Yes.	
§ 63.10(b)(2)(vi), (b)(2)(vii)(A)–(B), (c), (d)(3), (e).		No	Subpart ZZZZZZ does not require a CPMS, COMS, CEMS, or opacity or visible emissions limit.
§ 63.10(c)(2)–(c)(4), (c)(9)	Reserved	No.	
§ 63.11	Control Device Requirements	No.	
§ 63.12	State Authority and Delegations	Yes.	
§§ 63.13–63.16	Addresses, Incorporations by Reference, Availability of Information, Performance Track Provisions.	Yes.	

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Federal Register

Thursday,
June 25, 2009

Part III

Department of Labor

Employment and Training Administration

20 CFR Part 606

Federal-State Unemployment Compensation (UC) Program; Funding Goals for Interest-Free Advances; Proposed Rule

DEPARTMENT OF LABOR

Employment and Training Administration

20 CFR Part 606

RIN 1205–AB53

Federal-State Unemployment Compensation (UC) Program; Funding Goals for Interest-Free Advances

AGENCY: Employment and Training Administration (ETA), Labor.

ACTION: Notice of proposed rulemaking (NPRM); request for comments.

SUMMARY: The Department of Labor (Department) is proposing a rule to implement Federal requirements conditioning a State's receipt of interest-free advances from the Federal Government for the payment of unemployment compensation (UC) upon the State meeting ''funding goals, as established under regulations issued by the Secretary of Labor.'' The proposed rule would require that States: Meet a solvency criterion in one of the 5 calendar years preceding the year in which advances are taken; and meet two tax effort criteria for each calendar year after the solvency criterion is met up to the year in which an advance is requested.

DATES: To be ensured consideration, comments must be submitted in writing on or before August 24, 2009.

ADDRESSES: You may submit comments, identified by Regulatory Information Number (RIN) 1205–AB53, by only one of the following methods:

- *Federal e-Rulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail/Hand Delivery/Courier:* Submit comments to Thomas M. Dowd, Administrator, Office of Policy Development and Research (OPDR), U.S. Department of Labor, Employment and Training Administration, 200 Constitution Avenue, NW., Room N–5641, Washington, DC 20210. Because of security-related concerns, there may be a significant delay in the receipt of submissions by United States Mail. You must take this into consideration when preparing to meet the deadline for submitting comments.

The Department will post all comments received on *www.regulations.gov* without making any changes to the comments or redacting any information, including any personal information provided. The *http://www.regulations.gov* Web site is the Federal e-rulemaking portal and all comments posted there are available and accessible to the public. The Department recommends that commenters not include personal information such as Social Security Numbers, personal addresses, telephone numbers, and e-mail addresses in their comments as such submitted information will be available to the public via the *http://www.regulations.gov* Web site. Comments submitted through *http://www.regulations.gov* will not include the e-mail address of the commenter unless the commenter chooses to include that information as part of his or her comment. It is the responsibility of the commenter to safeguard personal information.

Instructions: All submissions received must include the agency name and the RIN for this rulemaking: RIN 1205–AB53. Please submit your comments by only one method.

Docket: All comments will be available for public inspection and copying during normal business hours by contacting OPDR at (202) 693–3700. You may also contact OPDR at the address listed above. As noted above, the Department also will post all comments it receives on *http://www.regulations.gov.*

Copies of the proposed rule are available in alternative formats of large print and electronic file on computer disk, which may be obtained at the above-stated address. The proposed rule is available on the Internet at the Web address *http://www.doleta.gov.*

FOR FURTHER INFORMATION CONTACT: Sherril Hurd, Acting Team Lead for the Regulations Unit, OPDR, Employment and Training Administration, (202) 693–3700 (this is not a toll-free number) or 1–877–889–5627 (TTY). Individuals with hearing or speech impairments may access the telephone number above via TTY by calling the toll-free Federal Information Relay Service at (800) 877–8339.

SUPPLEMENTARY INFORMATION:

I. Background

General

For any insurance program to be successful, revenues generated by the program must, over the long run, exceed the cost of the liabilities against whose risk the program was designed. Complementing that long run objective is the highly desirable feature that the insurance program avoids periods during which reserves are unavailable to pay claims. However, to acquire and maintain levels of reserves that would always guarantee all legitimate claims would be paid can be prohibitively expensive. In the case of the Unemployment Compensation (UC) Program, employers largely pay the premiums (employees can also pay in three states) and paying more in premiums means employers have less to grow their businesses and add jobs to the economy. Hence for the UC Program the objective is to build and maintain reserves at a level that will ensure funds are available to pay benefits during average recessions, which many States have not done, while not building reserves so high as to impede economic growth. For more severe recessions, a back-up is available in the form of advances. However, borrowing can result in undesirable actions, either voluntarily by the State or through the mandate of Federal law, at points in the economic cycle for which the actions are least bearable. Such actions might mean lowering benefits, increasing taxes, or a combination of both at a time when neither employers nor UC beneficiaries are best able to cope with the consequences. Borrowing can also present difficult political decisions for a State. For example, if the advance results in interest coming due, a State must finance the payment from a source other than the regular UC tax. Therefore, maintaining a solvent UC trust fund account is in the best interest of all involved.

UC is generally funded by employer contributions (taxes) paid to a State. The State, in accordance with sec. 303(a)(4) of the Social Security Act (SSA) (42 U.S.C. 503(a)(4)) and sec. 3304(a)(3) of the Federal Unemployment Tax Act (FUTA) (26 U.S.C. 3304(a)(3)), deposits these contributions immediately upon receipt into its account in the Federal Unemployment Trust Fund (UTF). Section 1202 of the SSA (42 U.S.C. 1322) permits a State to obtain repayable advances (commonly called loans) to this account from the Federal Government to pay UC when the account reaches a balance of zero. These advances are interest-bearing, except for certain short-term advances, which are commonly called ''cash flow loans.'' Under sec. 1202(b)(2) of the SSA (42 U.S.C. 1322(b)(2)), these short-term advances are interest free if:

(1) The advances made during a calendar year are repaid in full before the close of September 30 of the same calendar year;

(2) No additional advance is made during the same calendar year and after September 30; and

(3) The State meets funding goals relating to its account in the UTF, established under regulations issued by the Secretary of Labor (Secretary).

The Balanced Budget Act of 1997 (Pub. L. 105–33, sec. 5404) added the

third requirement, that is, that the State meet funding goals established under regulations by the Secretary. This notice sets forth these proposed funding goals.

Rationale for Proposed Funding Goals

During periodic economic downturns there is an increase in UC benefit payments made from State trust fund accounts. Changes in insured unemployment reflect the changing economic scene, especially the impact of recessions and long-term unemployment. In economist Saul J. Blaustein's historical review of the unemployment compensation system, in *Unemployment Insurance in the United States, the First Half Century,* he noted that the 1960s concluded with about seven consecutive years of relatively moderate-to-low levels of unemployment compensation claims and benefit outlays, which he reasoned may have encouraged a certain amount of complacency about reserves and financing. The recessions in the early and mid 1970s that were followed by the successive and deep recessions of the early 1980s found many States insolvent by mid-1983. For the first time, the entire Federal-State system was in a net negative balance position with regard to the aggregates of all State and Federal unemployment compensation trust funds accounts. Since advances were available from the Federal Unemployment Account without interest at the time, some States may have been inclined to avoid the more difficult policies required to maintain solvency.

Prior to the 1990–91 recession (December 1989), the aggregate balance of State trust fund accounts stood at 1.9 percent of total covered wages. Seven States used advances under Title XII of the Social Security Act during and following that relatively mild recession. After almost ten years of recovery, the aggregate balance only reached 1.5 percent of total covered wages in December 2000, resulting in nine States borrowing during and following the 2001 recession, again a relatively mild one. Going into the current recession, as of December 2007, State balances were only 0.8 percent of total covered wages. As of June 1, 2009, fourteen States had been forced to borrow.

States have wide latitude in determining how to provide for increases in UC benefits paid from their trust fund accounts. Generally, there are three methods of doing this: (1) Forward funding, whereby the State builds up its fund balance in anticipation of increased outlays, (2) pay-as-you-go financing, whereby taxes are raised as needed to cover benefits, and (3) deficit financing where a State uses borrowed funds to pay UC benefits. Most States use a combination of these methods.

Financing UC benefits by the use of forward funding is the most consistent with the overall UC program goals in that a State can avoid tax increases and/or benefit cuts when the economy is weak and can also avoid large amounts of borrowing. As noted above, the negative consequences of borrowing include interest charges and tax increases as well as potential benefit cuts.

The U.S. Government Accountability Office and the Advisory Council on Unemployment Compensation (1994–1996) raised concern regarding the ongoing financial strain of the unemployment system. These groups documented the increasing trend for States to move away from forward funding of their UC programs. The Advisory Council on Unemployment Compensation, created by the Emergency Unemployment Compensation Act of 1991, reported that during the previous decade many States with low or negative trust fund reserves found themselves in a position of either increasing taxes on employers in the midst of an economic downturn, or restricting eligibility and benefits for the unemployed. The Council reported that it was in the interest of the nation that the Unemployment Compensation System provide for a build-up of reserves during good economic times and drawing down reserves during recessions.

In general, the past reviews of the Unemployment Compensation System concluded that if the forward-funding nature of the Unemployment Compensation System is not restored the shift in financing methods has the potential to dramatically increase borrowing, leading to interest charges and tax credit reductions at points in the business cycle when these additional costs to employers would be difficult to cope with and would also precipitate reductions in UC benefits. Both of these results would reduce the UC program's economic stabilization effect.

It was in light of these reports that the Balanced Budget Act of 1997 included an amendment to Title XII of the Social Security Act (SSA). Under Section 1202(b)(2) of the SSA, advances made from the Federal Unemployment Account during a calendar year are interest free if the following conditions are met:

—The advances are repaid in full before the close of September 30 of the calendar year in which the advances were made, and

—Following this repayment, no other advance is made to the State during the calendar year.

The Balanced Budget Act added a third condition. States were now required to meet ''funding goals, established under regulations issued by the Secretary of Labor, relating to the accounts of the States in the Unemployment Trust Fund.''

According to the House Committee report, this amendment was intended to encourage solvency of State unemployment funds:

> Should a State account become insolvent during an economic downturn, adverse conditions can result for the State and its employers. Borrowing Federal funds imposes a cost on the State at a time when it may face other financial difficulties. The State may react by raising taxes on its employers or cutting benefits, thereby discouraging economic activity during a period when its economy is already in decline. The provision would encourage States to maintain sufficient unemployment trust fund balances to cover the needs of unemployed workers in the event of a recession. (H. Rep. No. 105–149, 104th Cong. 1st Sess. 108 (1997).)

The purpose of the ''funding goals'' requirement established by the Balanced Budget Act was to provide an incentive for States to build and maintain sufficient reserves in their accounts by restricting an existing Federal subsidy, in the form of an interest-free borrowing period, to only those States that meet a forward funding solvency goal. The original adoption of a short interest-free borrowing period (1982), in effect a Federal subsidy to State UC programs, was intended to assist only those States that required a relatively small advance for a short period of time, for cash-flow purposes. By choosing to restrict the current subsidy, Congress hoped to encourage States to be more aware of the need to build cash reserves in order to adequately prepare for economic downturns. Although the current subsidy is a relatively small amount compared to overall borrowing costs, it is used quite often by States during recessionary periods.

The original bill (H.R. 2015, 105th Cong. sec. 9404 (1997)) specified a solvency standard that a State's UTF account had to meet in a specified past time period to obtain an interest-free advance. However, the bill ultimately enacted as the Balanced Budget Act, as explained by the legislative history (H.R. Conf. Rpt. 105–217, at 571, reprinted at 1997 U.S.C.C.A.N. 176, 950 (Jul. 30, 1997)), dropped the solvency standard and timeframe, leaving it to the Secretary ''to establish appropriate funding goals for States.''

To meet the statutory requirement and Congress's goal of encouraging States to provide for sufficient unemployment trust fund balances to cover the needs of unemployed workers in the event of a recession, the Department proposes funding goals which would encourage States to: (1) Build and maintain adequate solvency levels during economic expansions; and (2) avoid substantial reductions of tax effort prior to obtaining an advance. These proposed funding goals provide an incentive for States to increase their level of forward funding, but are not a mandate on States.

The Department adhered to several principles in developing the proposed funding goals. These principles required that the funding goals should:

- Be based on currently collected data from reports approved by the Office of Management and Budget (OMB), specifically tax rates calculated from contributions and wage data reported in the Quarterly Census of Employment and Wages (QCEW) report (OMB No. 1220–0012); State trust fund account balances and benefits paid data from the ETA–2112 report (OMB No. 1205–0456)) which can be used to measure adequacy of trust fund account solvency and tax effort. These data are used to establish criteria for the funding goals discussed below;
- Be based on established concepts and measures such as the reserve ratio and average high cost multiple that are commonly used by DOL, State offices, and researchers to assess trust fund account adequacy. See below for the definitions of ''reserve ratio'' and ''average high cost multiple'';
- Consider Trust Fund account balances over a reasonable period of time rather than at a single recent point-in-time in order to recognize that economic dynamics, such as a changing industrial mix, and a growing labor force could be responsible for an erosion in fund balances; and
- Take into account State behavior in terms of an intentional reduction in revenues.

Funding Goals Considered

The Department considered three approaches to establishing funding goals as required by sec. 1202(b)(2)(C) of the SSA. Each is discussed in turn.

Approach I

Under this approach States would have to satisfy two criteria in order to qualify for an interest-free advance:

(1) A solvency goal (described below) which requires a State to have met a specified solvency level in one of the 5 years prior to borrowing; and

(2) The maintenance of a specified level of tax effort (mechanics described below) in the years between reaching the solvency goal and borrowing.

The two criteria are complementary in terms of proper trust fund management and together support the intent of the Balanced Budget Act. The solvency goal is a measure of trust fund account adequacy at a point in time and reflects past efforts to ensure availability of funds to pay UC in an economic downturn. Legislative history shows Congressional interest in such a concept. The maintenance of tax effort requirement reflects State behavior over a period of time, i.e., the period between attaining the solvency goal and needing an advance to pay UC, and is designed to avoid giving an interest-free advance to a State whose need for an advance was precipitated by a deliberate State action such as a legislated tax cut that adversely impacted trust fund account solvency. As described below, the maintenance of tax effort requirement allows for reductions that might typically occur as a result of an automatic shift in tax schedules.

Solvency Goal

The solvency goal would require that a State have an Average High Cost Multiple (AHCM), as calculated below, of at least 1.0 in one of the 5 years prior to the year in which a State seeks to obtain an interest-free advance. The AHCM is a measure of solvency that was refined and recommended by the Advisory Council on Unemployment Compensation (ACUC) in 1995. This measure is similar, but not identical to, the measure described in the legislative history (as outlined below). The ACUC, established by the Emergency Unemployment Compensation Act of 1991 (sec. 908, SSA; 42 U.S.C. 1108), recommended that States accumulate reserves sufficient to pay at least one year of benefits using the AHCM formula, that is, an AHCM of 1.0. The legislative history also recommended a level equal to one year of benefits.

For any year, the AHCM consists of two ratios:

(1) The ''reserve ratio''—The balance in a State's UTF account on December 31 divided by total wages paid to UC-covered employees during the 12 months ending on December 31; and

(2) The ''average high cost rate (AHCR)''—Over whichever period is longer, either the most recent 20 years or the period covering the most recent three recessions, the average of the three highest values of: Benefits paid during a calendar year divided by total wages paid to UC- covered employees during the same calendar year.

The AHCM is computed by dividing the reserve ratio by the AHCR. The resulting AHCM represents the number of years a State could pay UC benefits at a rate equal to the AHCR, without collecting any additional UC taxes.

Based upon the Department's review of historical data, going back to 1967, States having an AHCM of at least 1.0 going into a moderate recession are not likely to borrow during or after the recession. None of the States borrowing during the current recession (as of June 9, 2009) had an AHCM exceeding 0.4 at its beginning, December 2007. For the solvency goal under Approach I, the Department would require a State to have an AHCM of 1.0 as of the end of one of the 5 calendar years prior to the year in which it has taken the advance that could potentially qualify as an interest-free advance. Requiring that a State had met the solvency goal in one of the 5 years prior to borrowing demonstrates that the State had acted responsibly by achieving the goal in the recent past. The use of the five-year requirement also recognizes that economic dynamics may be such that a State may slide toward insolvency over a period of time. The time requirement suggested by the legislative history was much shorter, but was rejected as unworkable. The requirement also might enable a State to qualify for an interest-free advance in consecutive years, but no more than five, as a result of needing an AHCM of at least 1.0 in one of the 5 years preceding the advance. Because a State may qualify for interest-free advances over a 5-year period, there is ample time for it to fix its inability to adequately finance its UC program before losing access to interest-free advances.

Proposed Maintenance of Tax Effort Goal

The maintenance of tax effort goal is based upon two measures. The first is the ''unemployment tax rate'' (UTR), defined at 20 CFR 606.3(j) as, for any taxable year, the percentage obtained by dividing the total amount of State UC taxes paid into the State unemployment fund by ''total wages.'' (''Total wages,'' as defined in 20 CFR 606.3(l), is the sum of all remuneration covered by a State law, disregarding any dollar limitation on the amount of remuneration which is subject to contributions under the State's law. Since State UC laws tax only a portion of wages paid, disregarding this dollar limitation means that ''total wages'' includes all the wages paid.) The UTR, also known as the Average Tax Rate, is published in the quarterly UI Data Summary. The second is the ''benefit-cost ratio'' (BCR),

defined at 20 CFR 606.3(c) as the percentage obtained by dividing all UC paid under State law during a calendar year by ''total wages.'' (UC paid to former employees of reimbursing employers, that is, employers not subject to UC taxes, but who instead ''reimburse'' the costs of benefits, is excluded.)

For a State to meet the maintenance of tax effort goal, it must satisfy two requirements demonstrating that it attempted to maintain the solvency of its UTF account through its tax system. First, for each year between the last year in which the solvency goal was met and the year of the potential interest-free advance, the State's UTR must be at least 80 percent of the prior year's rate. Since the UTR is a measure of revenue generating capacity, this requirement would prohibit a State from receiving an interest-free advance if it allowed its revenue generating capacity to decline by more than 20 percent annually for any year between the last year the solvency goal was met and the year of the potential interest-free advance. A reduction in the UTR of 20 percent or less from one year to the next is considered an acceptable variation as historical data show UTR drops of this magnitude are common and largely attributable to tax schedule shifts. If the State's UTR were lower than 80 percent of the prior year's UTR for any year at issue, the State would be considered to be making insufficient efforts to fund UC.

Second, for each year between the last year in which the solvency goal was met and the year of the potential interest-free advance, the UTR must be at least 75 percent of the average of the State's BCRs, as determined under 20 CFR 606.21(d), over the previous 5 years. This requirement supplements the first by assessing whether a State has contributed to its benefit financing problems. The first requirement assures that the State maintained its tax effort by not allowing employer contributions, that is, tax revenue, to decline unduly. The second requirement assures that the State maintained its tax efforts by keeping employer contributions at a reasonable proportion of UC paid, which assures that the State's tax structure is sufficiently functional to generate adequate revenue to cover a reasonable percentage of the 5-year average costs. Thus, the two requirements together assure that the State meets the maintenance of tax effort goal by both maintaining revenue and assuring that that revenue is reasonably adequate to finance benefits.

Approach II

Approach II eliminates the tax effort requirement from Approach I. This approach focuses on attainment of adequate trust fund account solvency at a point in time relatively close to the time borrowing begins. Attaining an adequate trust fund account shows a State did act responsibly to build reserves to guard against the risks of high unemployment. This approach dilutes the incentive for achieving and maintaining trust fund account solvency, while making it easier for States to qualify for interest-free advances.

Approach III

This approach is modeled on Approach I, but instead of having an AHCM of 1.0, the State would have to have a reserve ratio of 1.7 percent. (As explained above, the ''reserve ratio'' is the balance in a State's UTF account on December 31 divided by total wages paid to UC-covered employees during the 12 months ending on December 31.) The reserve ratio is a widely used measure of trust fund levels, making it attractive. But it does not contain any measure of previous State payouts which makes it less powerful as a solvency measure than the AHCM. Setting the threshold at 1.7 percent makes the approach roughly as stringent as Approach I, which is based on the ACUC recommendation. Simulations revealed that approximately the same number of States, but not necessarily the same States, would qualify for an interest-free advance over the period 1972 through 2007 using the reserve ratio as a measure of trust fund account adequacy with a threshold of 1.7 percent as using an AHCM with a threshold of 1.0.

Including the maintenance of tax effort criterion would guard against a State's taking deliberate action resulting in reduced revenue, thereby precipitating the need for an advance. The provision would encourage States to act responsibly to avoid the need to borrow funds.

Impact on Federal State Unemployment Compensation (UC) Program

The overall impact of the funding goals will be the potential reduction in the amount of Federal subsidies going to States in the form of increased interest payments from States that no longer qualify for the interest-free borrowing period. Although a high proportion of States that borrow Federal funds to pay UC benefits receive this subsidy, it is actually small compared to overall borrowing costs. For example, following the 1991 recession, seven states borrowed Federal funds to pay UC benefits. All seven used the interest-free borrowing period at some point in their borrowing. Following the 2001 recession (2002–2007), nine States borrowed approximately $5 billion to pay UC benefits. All nine States that borrowed Federal funds during this period at some point received an interest-free borrowing period. Their foregone interest payments totaled an estimated $17 million. However, this was only about 9% of the total of $184 million in interest payments that these States made.

When the proposed criteria for each approach of the funding goals was applied to these two recessions, only two of the seven States that qualified for an interest-free advance following the 1990–1991 recession would have qualified under any of the proposed approaches. Only one of the nine States that qualified following the 2001 recession would have qualified under the proposed approaches. That one state, Massachusetts, avoided only approximately $1 million in interest payments, which represented less than one percent of all borrowing costs following this recession.

Besides these measurable impacts, the proposed funding goals will also have significant impacts that are difficult to quantify. One unquantifiable benefit is that by establishing a solvency goal, an inadequately funded State could no longer misuse the interest-free borrowing period by taking an interest-free advance in one year and repaying it with funds from other sources, and then possibly repeating that process in consecutive years—thereby avoiding the payment of interest on the use of Federal funds. The adoption of an interest-free borrowing period was intended to assist those States that required only a relatively small advance for a short period of time, not to encourage States to maintain small trust fund account balances and misuse the interest-free mechanisms, which has occurred on several occasions.

Another unquantifiable benefit will be the publication in Federal regulations, for the first time, a reference to the importance of the level of trust fund solvency. Since no solvency standards currently exist in Federal statutes or regulations, this would be the first guideline that States could refer to when considering the adequacy of their UC trust fund accounts.

Finally, State reaction to the funding goals will determine the extent to which solvency is improved and future borrowing reduced. To the extent States do react and interest-free borrowing is

reduced, the policy goal of reducing the subsidy provided by interest-free advances will be achieved.

Impact on Eligibility for Interest-Free Advances

The Department conducted simulations using historical data to examine the effects of applying the three solvency approaches on the eligibility for an interest-free advance. To do these simulations, the Department created a set of annual State data from 1967 through 2007, and then examined borrowing over the period 1972 through 2007. (The earlier data were used to satisfy the proposed five-year look-back criterion.) Between 1972 and 2007, States borrowed in a total of 246 years. These individual borrowing years were then aggregated into 67 borrowing episodes (defined as periods of consecutive years in which a State borrowed). Only the first year of each episode was tested for eligibility under the three approaches, assuming that the first year of borrowing is when a State would most likely seek an interest-free advance. These episodes may have lasted for a single year or multiple years and may have required interest payments. The episodes lasted 3.3 years on average, with 17 of them being less than one year long. They have tended to become shorter with milder recessions. Information was not available to determine how many States would have qualified for interest-free advances under the existing criteria, and the States' borrowing practices may well have changed after 1982, when interest was imposed on borrowing. As a result, the analysis based on these historical data is only able to show the number of episodes for which the new funding goals would have been met in the first year, not whether States had met the other criteria for interest-free cash-flow advances that year.

The results, based on the 67 borrowing episodes, are summarized below.

Approach I

- In 23 instances (34 percent of the time) the State would have met the funding goals for an interest-free advance in the first year of borrowing under the proposed approach.
- In 19 instances (28 percent of the time) the State would not have met the 1.0 AHCM solvency goal.
- In 9 instances (13 percent of the time) the State would have met the solvency goal, but not the maintenance of tax effort goal.
- In 16 instances (24 percent of the time) the State would have met neither the solvency goal nor the maintenance of tax effort goal. (Percentages do not add to 100 due to rounding.)

Approach II

- In 32 instances (48 percent of the time) the State would have met the funding goals for an interest-free advance in the first year of borrowing under the proposed approach.
- In 35 instances (52 percent of the time) the State would not have met the 1.0 AHCM solvency goal

Approach III

- In 22 instances (33 percent of the time) the State would have met the funding goals for an interest-free advance in the first year of borrowing under the proposed approach.
- In 19 instances (28 percent of the time) the State would not have met the 1.7 percent reserve ratio solvency goal.
- In 9 instances (13 percent of the time) the State would have met the solvency goal, but not the maintenance of tax effort goal.
- In 17 instances (25 percent of the time) the State would have met neither the solvency goal nor the maintenance of tax effort goal. (Percentages do not add to 100 due to rounding.)

An examination of the simulation results reveals that imposing any of the three approaches will make it more difficult for States with problematic financing systems to receive an interest-free advance. Of the 67 borrowing episodes studied, States would have met the funding goals for interest-free borrowing under the three funding goal approaches 34 percent, 48 percent, and 33 percent of the time respectively. Thus, while imposition of any of the three approaches as additional qualifying criteria for an interest-free advance restricts such advances, they are not so restrictive that interest-free advances would be eliminated. A detailed break-out of the data used for the simulations and results is available by contacting the Department through the contact information provided above as well as on www.regulations.gov as part of the supplemental information provided with this NPRM.

Impacts on Employers and Claimants

The impact of implementation of the funding goals depends on what choices States make. If a State chooses to take no action, the State will pay more interest in the event it has a cash-flow loan, which will ultimately impact taxes and/or benefits. If a State chooses to increase its trust fund level to meet the funding goals, there are also potential impacts on taxes and benefits. Either way, the ultimate impacts fall on employers or claimants, although some of the costs for one group are benefits for the other group and vice-versa.

There are identifiable benefits and costs to employers and claimants. Identifying and quantifying the distribution of the impacts to these groups is done to provide a breakdown. However, the impacts between groups are not exclusive of one another. The table below summarizes these identifiable annual impacts of the three approaches. The estimates were made by simulating the adoption of each approach during the 1999–2006 period. This period contained a relatively high frequency of State borrowing with extensive use of the existing interest-free advance provision, and a relatively large number of States responding to that recession by increasing tax revenue and/or reducing benefits. Each State's situation was examined and assumptions made about how the State would react to the implementation of each of the three approaches compared to what actually occurred. Estimated impacts were then calculated for employers and for claimants.

ESTIMATED POTENTIAL IMPACTS ON EMPLOYERS AND CLAIMANTS (1999–2006)

[Annualized amounts in $millions]

	Approach I	Approach II	Approach III
Employers:			
A. Decreased Taxes	0.6	0.6	0.5
B. Increased Contributions	–4.2	–2.1	–2.9
Claimants:			
C. Smaller UC Benefit Reductions	1.8	2.5	2.0

ESTIMATED POTENTIAL IMPACTS ON EMPLOYERS AND CLAIMANTS (1999–2006)—Continued

[Annualized amounts in $millions]

	Approach I	Approach II	Approach III
D Reduced UC Benefits	–1.2	–0.8	–1.1

The estimated impacts on employers and claimants are within the total estimated State impact and depend on how the State would react to the implementation of each of the three approaches as described below.

The funding goals would provide a benefit to employers in the form of a reduced risk of higher taxes that could occur when most detrimental—during a recession or its aftermath (line A in the table). For States that increase account balances to meet the solvency goal, higher interest earnings will be realized on those balances. The resulting higher account balances will put some downward pressure on tax rates once the higher balances are achieved, to the benefit of employers. In addition, the higher balances will reduce the likelihood of borrowing and the possibility of having to pay interest. The payment of interest can be a problem since States cannot use funds from their UTF accounts to pay it (sec. 1202(b)(5), SSA), raising the possibility of a separate tax on employers to pay the interest. Further, if advances are taken from the UTF and not repaid within a specified period of time, a State's employers could pay higher taxes through a reduction in the FUTA credit to help repay the advance (sec. 3302(c)(2), FUTA). With higher balances in a State's trust fund account at the beginning of a recession, the period during which an advance is needed would be shorter, thus reducing interest charges and reducing the risk of FUTA credit reduction.

One identifiable cost to employers is the possible higher unemployment compensation taxes in States that may lose their current ability to receive interest-free borrowing privileges or in those States that choose to meet the funding goal requirements (line B in the table). In the first case, States would need to find a way to make interest payments as those payments may not, under sec. 1202(b)(5), SSA, be made from revenues collected to pay unemployment compensation. That might mean a separate tax on employers, or using other State money. In the second case, in States that choose to meet the funding goal criteria but currently do not, higher UC taxes (resulting from either tax increases or smaller tax reductions than might otherwise be the case) would need to be implemented.

There is also a benefit to workers. Some States whose trust fund accounts become depleted may choose to limit scheduled benefit amount increases or to reduce benefits. States adopting the funding goal are more likely to avoid the need to borrow as well as the need to negatively impact the benefits of unemployed workers (line C in the table).

The funding goal could also impose a cost on workers by cutting benefits (line D in the table). States that respond to insolvency by cutting benefits may be induced to cut further because of the increased interest cost. Also, States that try to achieve the solvency criterion may cut benefits to do so (although this seems unlikely), in addition to increasing taxes.

These estimates, as can be seen, are relatively small given that they fall within the limits of the interest foregone from attaining an interest-free borrowing period. Interested parties can obtain the backup information from the Department through the contact information provided above or on *www.regulations.gov* as part of the supplemental information provided with this NPRM.

Selected Approach and Justification

Upon careful review of the three approaches, the Department selected Approach I to best satisfy the legislative goal of encouraging States to maintain adequate reserves to pay benefits during recessionary periods. All three approaches encourage maintenance of adequate reserves but vary in terms of complexity and impact, and these factors were also weighed in the decision process as well as the fact that there was relatively little difference in the quantitative impact analysis among the three approaches, given the size of the UC program (in fiscal year 2008, $32 billion in State revenues and $38 billion paid in State benefits).

Approach I uses as a measure of trust fund account adequacy, the AHCM, which was recommended by the ACUC. Benefit costs are a key determinant of trust fund account solvency and the AHCM includes benefits as a component to help measure the risk of insolvency, while the reserve ratio does not include benefits. As a result, the AHCM is believed to be a better indicator of a State's ability to pay UC in an economic downturn. Hence that consideration supported Approach I over Approach III which had the same tax maintenance effort requirement as Approach I.

Approach II dropped from Approach I the maintenance of tax effort criterion in order to create a simpler, more easily understood funding goal that still reflected Congressional intent. The simulations show that, compared to Approach I, eight more borrowing episodes could have qualified as interest-free advances without the maintenance of tax effort requirement. So, absent the tax effort requirement, a State might reduce taxes too sharply, causing it to borrow, but nevertheless qualify for an interest-free advance despite its poor tax management. This simulation result reinforces the concept that it is important to maintain an adequate trust fund over the length of the business cycle rather than at just one point in time in order to reduce the need to borrow. Thus, the incentive to achieve an adequately financed system is reduced under Approach II compared to Approach I. Therefore, Approach I is superior to Approach II in light of the objective.

On the above analysis, Approach I was selected.

II. Proposed Amendments

The proposed rule would amend paragraph (b) of § 606.32 to add the funding goal described in Approach I to the existing requirements for an interest-free advance. More specifically, the amendments would require that a State have had an AHCM of at least 1.0 in one of the 5 years prior to the year in which that State seeks to obtain an interest-free advance. Also, the State must have maintained tax effort between the last year the State had an AHCM of at least 1.0 and the year in which the advance or advances were made. The amendments would then specify the calculation of the AHCM as well as how to determine whether a significant tax cut was made.

The proposed rule would also amend the definition of ''BCR'' at § 606.3(c). Currently, this definition applies only for purposes of the cap on tax credit reductions under sec. 3302(f) of the Federal Unemployment Tax Act (26

U.S.C. 3302(f)). The proposed rule would delete the definition's reference to the cap, thereby making it applicable to the funding goal as well. Paragraph (d) of § 606.21, which defines the ''State 5-year average benefit cost ratio,'' would similarly be amended so as to apply to the funding goal as well as the cap.

The Department intends that the final rule establishing funding goals would apply 2 years after its date of publication to allow States time to adjust their financing systems if they choose to do so. The Department also invites comments about the possibility of phasing in the funding goals and related mechanics.

Request for Comments

The Department proposes in this NPRM to amend part 606 to establish the funding goals required by sec. 1202(b)(2)(C) of the SSA. The Department is interested in receiving comments on the three approaches to funding goals considered here, as well as in receiving other suggestions for funding goals.

III. Administrative Provisions

Executive Order 12866

This proposed rule is not an economically significant rule. Under Executive Order 12866, a rule is economically significant if it materially alters the budgetary impact of entitlements, grants, user fees, or loan programs; has an annual effect on the economy of $100 million or more; or adversely affects the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities in a material way. This proposed rule is not economically significant under the Executive Order because it will not have an economic impact of $100 million or more on the State agencies or the economy as explained above. However, the proposed rule is a significant regulatory action under Executive Order 12866 at sec. 3(f) because it raises novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order. This proposed rule updates existing regulations in accordance with Congressional mandates. Therefore, the Department has submitted this proposed rule to the Office of Management and Budget (OMB) for review.

Paperwork Reduction Act

Under the Paperwork Reduction Act (PRA), the Department is required to submit any information collection requirements to the Office of Management and Budget (OMB) for review and approval. 44 U.S.C. 3501 *et seq.* This proposed rule does not impose any new requirements on the States that have not already been approved by OMB for collection. Therefore, the Department has determined that this proposed rule does not contain a new information collection requiring it to submit a paperwork package to OMB. Data to be used is covered by the following OMB approvals: OMB No. 1220–0012 for the Quarterly Census of Employment and Wages report and OMB No. 1205–0456 for the ETA–2112 report containing State trust fund account balances and benefits paid data.

Executive Order 13132: Federalism

Section 6 of Executive Order 13132 requires Federal agencies to consult with State entities when a regulation or policy may have a substantial direct effect on the States or the relationship between the National Government and the States, or the distribution of power and responsibilities among the various levels of government, within the meaning of the Executive Order. Section 3(b) of the Executive Order further provides that Federal agencies must implement regulations that have a substantial direct effect only if statutory authority permits the regulation and it is of national significance. The proposed rule does not have a substantial direct effect on the States or the relationship between the National Government and the States, or the distribution of power and responsibilities among the various levels of Government, within the meaning of the Executive Order. Any action taken by a State as a result of the rule would be at its own discretion as the rule imposes no requirements. In addition, the primary estimate on an annualized basis for the difference of costs over benefits is $4.2 million. That $4.2 million would be added to State unemployment trust fund accounts.

Unfunded Mandates Reform Act of 1995

This regulatory action has been reviewed in accordance with the Unfunded Mandates Reform Act of 1995. Under the Act, a Federal agency must determine whether a regulation proposes a Federal mandate that would result in the increased expenditures by State, local, or tribal governments, in the aggregate, or by the private sector, of $100 million or more in any single year. The Department has determined that this proposed rule does not create any unfunded mandates as it will not significantly increase aggregate costs of the UC program. The main effect of this proposal is to encourage States to build and maintain adequate balances in their UC accounts. Accordingly, it is unnecessary for the Department to prepare a budgetary impact statement. Further, as noted above, the impact is positive for State trust fund accounts.

Plain Language

The Department drafted this proposed rule in plain language.

Effect on Family Life

The Department certifies that this proposed rule has been assessed according to sec. 654 of Public Law 105–277 for its effect on family well-being. This provision protects the stability of family life, including marital relationships, financial status of families, and parental rights by encouraging the States to maintain adequate funding of their UTF accounts. It will not adversely affect the well-being of the nation's families. Therefore, the Department certifies that this proposed rule does not adversely impact family well-being.

Regulatory Flexibility Act/SBREFA

We have notified the Chief Counsel for Advocacy, Small Business Administration, and made the certification according to the Regulatory Flexibility Act (RFA) at 5 U.S.C. 605(b), that this proposed rule will not have a significant economic impact on a substantial number of small entities. Under the RFA, no regulatory flexibility analysis is required where the rule ''will not * * * have a significant economic impact on a substantial number of small entities.'' 5 U.S.C. 605(b). A small entity is defined as a small business, small not-for-profit organization, or small governmental jurisdiction. 5 U.S.C. 601(3)–(5). This proposed rule would directly impact States. The definition of small entity does not include States. Therefore, no RFA analysis is required.

In addition, this proposed rule encourages States to build and maintain adequate balances in their UC accounts but does not require that they do so. Before the current recession, nineteen States had already met the 1.0 AHCM criterion with an additional two States having AHCMs above 0.95 for which little or no action would have been necessary to meet the criterion. Some States with lower AHCMs perceive a low risk of borrowing either because they have responsive tax systems or low unemployment projections, while other States prefer keeping their UC taxes low to spur further economic growth and such States are not likely to take action to meet the solvency criterion. For the States that might take action, achieving the solvency criterion would involve varying degrees of tax changes

depending on how quickly achievement of the criterion is desired. With proper adjustment to their funding mechanisms, tax increases would only be in place until appropriate UTF account balances reflecting the solvency criterion are met. Only a few States are likely to take action to achieve the solvency criterion and any action is likely to involve temporary, modest increases to a tax that is relatively low. Under any of the alternatives, only a few States would take action which would translate to a minimal impact on all entities given the impact estimates and size of the UC tax. Therefore, the Department certifies that this proposed rule will not have a significant impact on a substantial number of small entities and, as a result, no regulatory flexibility analysis is required.

In addition, consistent with the impact analysis discussed above, this proposed rule is not a major rule as defined by sec. 804 of the Small Business Regulatory Enforcement Act of 1996 (SBREFA).

List of Subjects in 20 CFR Part 606

Employment and Training Administration, Labor, and Unemployment compensation.

Words of Issuance

For the reasons stated in the preamble, the Department proposes to amend 20 CFR part 606 as set forth below:

Signed at Washington DC, this 16th day of June 2009.

Douglas F. Small,

Deputy Assistant Secretary, Employment and Training Administration.

PART 606—TAX CREDITS UNDER THE FEDERAL UNEMPLOYMENT TAX ACT; ADVANCES UNDER TITLE XII OF THE SOCIAL SECURITY ACT

1. The authority citation for 20 CFR part 606 is revised to read as follows:

Authority: 42 U.S.C. 1102; 42 U.S.C. 1322(b)(2)(C); 26 U.S.C. 7805(a); Secretary's Order No. 3–2007, April 3, 2007 (72 FR 15907).

2. Section 606.3(c) introductory text is revised to read as follows:

§ 606.3 Definitions.

* * * * *

(c) *Benefit-cost ratio* for a calendar year is the percentage obtained by dividing—

* * * * *

3. Section 606.21(d) is amended by revising the first sentence to read as follows:

§ 606.21 Criteria for cap.

* * * * *

(d) *State five-year benefit-cost ratio.* The average benefit cost ratio for the five preceding calendar years is the percentage determined by dividing the sum of the benefit cost ratio for the 5 years by five. * * *

4. Section 606.32 is amended by revising paragraph (b) to read as follows:

§ 606.32 Types of advances subject to interest.

* * * * *

(b)(1)(i) *Cash flow loans.* Advances repaid in full prior to October 1 of the calendar year in which made are deemed cash flow loans and shall be free of interest; provided, that:

(A) The State has met the funding goals described in paragraph (b)(2) of this section; and

(B) The State does not receive an additional advance after September 30 of the same calendar year.

(ii) If such additional advance is received by the State, interest on the completely repaid earlier advance(s) shall be due and payable not later than the day following the date of the first such additional advance. The administrator of the State agency shall notify the Secretary of Labor no later than September 10 of those loans deemed to be cash flow loans and not subject to interest. This notification shall include the date and amount of each loan made in January through September and a copy of documentation sent to the Secretary of the Treasury requesting loan repayment transfer(s) from the State's account in the Unemployment Trust Fund to the Federal unemployment account in such Fund.

(2) *Funding goals.* A State has met the funding goals if:

(i) As of December 31 of any of the 5 calendar years preceding the calendar year in which such advances are made, the State had an average high cost multiple (AHCM) of at least 1.0, as determined under paragraphs (b)(3) and (b)(4) of this section; and

(ii) The State maintained tax effort with respect to the years between the last year the State had an AHCM of at least 1.0 and the year in which the advance or advances are made, as determined under paragraph (b)(5) of this section.

(3) *Calculation of AHCM.* The State's AHCM as of December 31 of a calendar year is calculated by:

(i) Dividing the balance in the State's account in the Unemployment Trust Fund as of December 31 of such year by the total wages paid to UC covered workers during such year; and

(ii) Dividing the amount so obtained by the State's average high cost rate (AHCR) for the same year.

(4) *Calculation of the AHCR.* A State's AHCR is calculated as follows:

(i) Determine the time period over which calculations are to be made by selecting the longer of:

(A) The 20-calendar year period that ends with the year for which the AHCR calculation is made; or

(B) The number of years beginning with the calendar year in which the first of the last three completed national recessions began, as determined by the National Bureau of Economic Research, and ending with the calendar year for which the AHCR is being calculated.

(ii) For each calendar year during the selected time period, calculate the benefit-cost ratio, as defined at § 606.3(c); and

(iii) Calculate the mean of the three highest ratios from paragraph (b)(4)(ii) of this section and round to the nearest multiple of 0.01 percent.

(5) *Maintenance of Tax Effort.* A State has maintained tax effort for any year between the last calendar year in which the funding goals in paragraph (b)(1)(i) of this section were met and the calendar year in which an interest-free advance is sought, if the State's unemployment tax rate as defined in § 606.3(j) for the calendar year is not at least—

(i) 80 percent of the prior year's unemployment tax rate, and

(ii) 75 percent of the State 5-year average benefit cost ratio, as determined under § 606.21(d).

[FR Doc. E9–14752 Filed 6–24–09; 8:45 am]

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Federal Register

Thursday,
June 25, 2009

Part IV

Department of State

Office of Protocol; Gifts to Federal Employees From Foreign Government Sources Reported to Employing Agencies in Calendar Year 2008; Notice

DEPARTMENT OF STATE

[Public Notice 6681]

Office of Protocol; Gifts to Federal Employees From Foreign Government Sources Reported to Employing Agencies in Calendar Year 2008

The Department of State submits the following comprehensive listing of the statements which, as required by law, Federal employees filed with their employing agencies during calendar year 2008 concerning gifts received from foreign government sources. The compilation includes reports of both tangible gifts and gifts of travel or travel expenses of more than minimal value, as defined by statute. Also, included are gifts received in previous years including four gifts in 2003, three gifts in 2006, twenty-nine gifts in 2007. These latter gifts and expenses are being reported in 2008 as the Office of Protocol, Department of State, did not receive the relevant information to include them in earlier reports.

Publication of this listing in the **Federal Register** is required by Section 7342(f) of Title 5, United States Code, as added by Section 515(a)(1) of the Foreign Relations Authorization Act, Fiscal Year 1978 (Pub. L. 95–105, August 17, 1977, 91 Stat. 865).

Dated: May 19, 2009.

Patrick F. Kennedy,

Under Secretary for Management, Department of State.

AGENCY: EXECUTIVE OFFICE OF THE PRESIDENT

[Report of Tangible Gifts]

Name and title of person accepting the gift on behalf of the U.S. Government	Gift, date of acceptance on behalf of the U.S. Government, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
President	Traditional brown farwa (overcoat), a silver and gold dagger with belt and case, a silver and gold sabre with diamonds and rubies on the hand guard (includes belt and case), and an inscribed book titled ''Back to Earth: Adobe Building in Saudi Arabia,'' by William Facey. Rec'd—1/15/2008. Est. Value—$4,589.00. Location—Archives Foreign.	His Royal Highness Sultan Bin Salman bin Abdulaziz al Saud, Secretary General, Supreme Commission for Tourism, The Kingdom of Saudi Arabia.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Silver and gold replica of the palace on slab of malachite, a navy suede robe with gold rope trim and mink lining, and the King Abd al-Aziz Medal of Honor gold necklace. Rec'd—1/15/2008. Est. Value—$32,000.00. Location—Archives Foreign.	Abdullah bin Abd al-Aziz Al Saud, Custodian of the Two Holy Mosques, King of the Kingdom of Saudi Arabia.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	A silver and gold replica of a desert scene in Saudi Arabia including palm trees, a camel, a tent, and people on a granite slab. Rec'd—11/13/2008. Est. Value—$2,000.00. Location—Archives Foreign.	Abdullah bin Abd al-Aziz Al Saud, Custodian of the Two Holy Mosques, King of the Kingdom of Saudi Arabia.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Black Mercedes mountain bike with extra parts and a Philips digital photo frame with an SD card holding photos from the President's trip to Germany. Rec'd—6/10/2008. Est. Value—$4,687.00. Location—Archives Foreign.	Her Excellency Angela Merkel, Chancellor of the Federal Republic of Germany.	Non-acceptance would cause embarrassment to donor and U.S. Government.

AGENCY: EXECUTIVE OFFICE OF THE PRESIDENT—Continued

[Report of Tangible Gifts]

Name and title of person accepting the gift on behalf of the U.S. Government	Gift, date of acceptance on behalf of the U.S. Government, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
President	A 24″ gold chain Collar of State with accompanying certificate, a black sash with multicolored details and embroidered ''Pres. Bush'' and ''Akwabaa,'' and a green sash with the Grand Cordon in the Most Venerable Order of the Knighthood of the Pioneers gold medal and 4″ silver brooch replica of the Grand Cordon in the Most Venerable Order of the Pioneers medal with accompanying certificate. Rec'd—2/19/2008. Est. Value—$885.00. Location—Archives Foreign.	Her Excellency Ellen Johnson Sirleaf, President of the Republic of Liberia.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	22″ × 31 1/2″ framed rug portrait of two roan horses. Rec'd—1/15/2008. Est. Value—$400.00. Location—Archives Foreign.	His Eminence Abd al-Aziz al-Hakim, Chairman, Islamic Supreme Council of Iraq.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Tan leather saddle with gold thread embroidery; includes horse blanket, stirrups, reins, and bridle. Rec'd—9/24/2008. Est. Value—$1,400.00. Location—Archives Foreign.	His Excellency Abdelaziz Bouteflika, President of the People's Democratic Republic of Algeria.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Silver bowl with a crescent moon and star around the rim. Rec'd—1/7/2008. Est. Value—$711.00. Location—Archives Foreign.	His Excellency Abdullah Gul, President of the Republic of Turkey.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Sterling silver replica of Machu Picchu ruins in Peru held on a wooden base with ''To H.E. George W. Bush, From: H.E. Alan Garcia, Asia Pacific Economic Forum Lima—Peru 2008'' inscribed on silver plaque and a book titled ''Peru Vision'' by His Excellency Alan Garcia Perez and Carlos Espa. Rec'd—11/23/2008. Est. Value—$680.00. Location—Archives Foreign.	His Excellency Alan Garcia Perez, President of the Republic of Peru.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Tan Vicuna scarf with fringe held in an engraved wood box. Rec'd—12/14/2007 Est. Value—$972.00. Location—Archives Foreign.	His Excellency Alan Garcia Perez, President of the Republic of Peru.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Off-white and brown Colombian sombrero and a 49 piece white china set painted with blue flowers. Rec'd—9/20/2008. Est. Value—$852.00. Location—Archives Foreign.	His Excellency Alvaro Uribe Velez, President of the Republic of Colombia.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Mother of pearl picture frame, two leather vases, three wind chimes, and a candle holder. Rec'd—12/26/2007. Est. Value—$425.00. Location—Archives Foreign.	Their Majesties King Abdullah II bin Al Hussein and Queen Rania Al Abdullah, The Hashemite Kingdom of Jordan.	Non-acceptance would cause embarrassment to donor and U.S. Government.

AGENCY: EXECUTIVE OFFICE OF THE PRESIDENT—Continued

[Report of Tangible Gifts]

Name and title of person accepting the gift on behalf of the U.S. Government	Gift, date of acceptance on behalf of the U.S. Government, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
President	A pair of leather boots with hand stitched leather appliqués, a burlap and multicolored denim saddle pad, a painted leather and fabric saddle with copper stirrups, personalized ''George W. Bush,'' ''USA,'' and ''Mali'' with brass tacks, and a leather halter with brass embellishments and multicolored lead rope, all in traditional Malinese style. Rec'd—2/12/2008. Est. Value—$918.00. Location—Archives Foreign.	His Excellency Amadou Toumani Touré, President of the Republic of Mali.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Bang & Olufsen BeoLab 4000 music system with speakers and remote control. Rec'd—2/29/2008. Est. Value—$5,195.00. Location—Archives Foreign.	His Excellency Anders Fogh Rasmussen, Prime Minister of Denmark.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	10″ × 10″ ornate Waterford crystal footed bowl with scalloped border etched, ''Presented to George W. Bush, President of the United States of America on the Occasion of St. Patrick's Day 2008 by the Taoiseach, Bertie Ahern, on Behalf of the People of Ireland,'' live Shamrocks, and an 18″ figurine carved in 56,000-year-old bog wood. Rec'd—3/17/2008. Est. Value—$768.00. Location—Archives Foreign.	His Excellency Bertie Ahern, T.D., Prime Minister of Ireland.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	NATO Summit Bucharest commemorative items including a briefcase, gold coin, ''Wings of Freedom'' sketch, and Mont Blanc pen and ink set, USB drives, card case, DVDs, and leather portfolio, three books titled ''''Who's Afraid of Glass?'' by Ioan Nemtoi, four books titled ''Saints on Glass,'' ''Traditions: Romania Through Stamps,'' ''Patrimony Romanian Costume,'' and ''Bucuresti,'' by George Avanu, 2 audio CDs, an 11″ × 14″ hand painted icon of St. George, a large yellow blown glass bowl, and an 8″ × 10″ framed oil painting of four people. Rec'd—4/2/2008. Est. Value—$3,819.00. Location—Archives Foreign.	His Excellency Calin Popescu-Tariceanu, Prime Minister of Romania.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Bottle of 1977 Chardonnay. Rec'd—4/2/2008. Est. Value—$49.00. Location—Handled pursuant to Secret Service policy.	His Excellency Calin Popescu-Tariceanu, Prime Minister of Romania.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Traditional blue two-part Benin robe and a carved wood pot supported by three hands attached to a white embroidered cloth and held in a frame. Rec'd—2/16/2008. Est. Value—$525.00. Location—Archives Foreign.	His Excellency Dr. Boni Yayi, President of the Republic of Benin.	Non-acceptance would cause embarrassment to donor and U.S. Government.

AGENCY: EXECUTIVE OFFICE OF THE PRESIDENT—Continued

[Report of Tangible Gifts]

Name and title of person accepting the gift on behalf of the U.S. Government	Gift, date of acceptance on behalf of the U.S. Government, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
President	80″ × 113″ silk Afghani rug. Rec'd—5/17/2008. Est. Value—$4,000.00. Location—Archives Foreign.	His Excellency Dr. Hamid Karzai, President of the Islamic Republic of Afghanistan.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	19″ × 39″ oval lapis tabletop and two 19 1/2″ round lapis tabletops. Rec'd—9/26/2008. Est. Value—$19,400.00. Location—Archives Foreign.	His Excellency Dr. Hamid Karzai, President of the Islamic Republic of Afghanistan.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Limited edition silver bowl with enameled yellow flowers and green leaves and two inscribed books titled, ''A History of Ancient and Early Medieval India: From the Stone Age to the 12th Century,'' by Upinder Singh and ''Ghandian Way: Peace, Non-violence and Empowerment.'' Rec'd—9/24/2008. Est. Value—$813.00. Location—Archives Foreign.	His Excellency Dr. Manmohan Singh, Prime Minister of the Republic of India.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	A framed 28″ × 20″ photo of President Bush and Prime Minister Olmert, a hydration system cycling backpack, two blue Nalini cycling bib shorts with ''G.W. Bush'' and an Israeli flag printed on the leg, a blue short sleeve Nalini cycling jersey with ''G.W. Bush'' printed on the back, a blue long sleeve Nalini cycling jersey with ''G.W. Bush'' printed on the back, a 256MB memory card, a high quality Handy screen protector, and an HP iPAQ Travel Companion with accompanying charger and case. Rec'd—1/9/2008. Est. Value—$2,050.00. Location—Archives Foreign.	His Excellency Ehud Olmert, Prime Minister of Israel.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Athletic Equipment: MTB Hard Tail Special Edition mountain bike made by Segal bikes; President Bush's name and the Israeli flag painted on the frame and a framed 5′ × 2′ transfer of a photo onto a canvas of Masada landscape at night. Rec'd—5/15/2008. Est. Value—$3,450.00. Location—Archives Foreign.	His Excellency Ehud Olmert, Prime Minister of Israel.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Mounted crystal formation. Rec'd—7/21/2008. Est. Value—$600.00. Location—Archives Foreign.	His Excellency Fatmir Sejdiu, President of the Republic of Kosovo.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Two brown leather bookends with silver plated Agave plant on the sides. Rec'd—4/21/2008. Est. Value—$495.00. Location—Archives Foreign.	His Excellency Felipe de Jesus Calderon Hinojosa, President of the United Mexican States.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	12″ × 12″ square opaque yellow plate held on a silver stand. Rec'd—11/14/2008. Est. Value—$400.00. Location—Archives Foreign.	His Excellency Felipe de Jesus Calderon Hinojosa, President of the United Mexican States.	Non-acceptance would cause embarrassment to donor and U.S. Government.

AGENCY: EXECUTIVE OFFICE OF THE PRESIDENT—Continued

[Report of Tangible Gifts]

Name and title of person accepting the gift on behalf of the U.S. Government	Gift, date of acceptance on behalf of the U.S. Government, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
President	Sterling silver plated stag horn tea cup engraved with the seal of Paraguay, a sterling silver spoon, and a white linen embroidered shirt designed by Marcos Ismachowiez. Rec'd—10/27/2008. Est. Value—$362.00. Location—Archives Foreign.	His Excellency Fernando Lugo, President of the Republic of Paraguay.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Creative Zen MP3 Player and an OSIM uSqueez Calf and Foot Massager. Rec'd—4/9/2008. Est. Value—$579.00. Location—Archives Foreign.	His Excellency Goh Chok Tong, Senior Minister, Office of the Prime Minister of the Republic of Singapore.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Taxidermied lion and leopard, a zebra skin, and an 8' tall ornately carved statue. Rec'd—2/17/2008. Est. Value—$18,200.00. Location—Archives Foreign.	His Excellency Jakaya Kikwete, President of the United Republic of Tanzania.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Two shadow boxes displaying with carvings of native Tanzanians, an 11″ × 33″ framed painting of zebras, and a 33'' wood table with carvings of African animals including elephants, giraffes, and lions. Rec'd—8/28/2008. Est. Value—$625.00. Location—Archives Foreign.	His Excellency Jakaya Kikwete, President of the United Republic of Tanzania.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Pair of black Zandstra rollerblades, belreflector, Skeelers wrist guards, knee pads, and elbow pads, and white wood clogs with ''Jan Peter Balkenende,'' ''In friendship,'' and windmills painted in blue. Rec'd—6/5/2008. Est. Value—$762.00. Location—Archives Foreign.	His Excellency Jan Peter Balkenende, Prime Minister of the Kingdom of the Netherlands.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Cult full carbon Black Gold XTR mountain bike, navy tie with white designs, and a rectangular crystal bowl with star design. Rec'd—6/9/2008. Est. Value—$7,031.00. Location—Archives Foreign.	His Excellency Janez Jansa, Prime Minister of the Republic of Slovenia.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Gold cufflinks and matching gold chain necklace with stone and a large piece of red, black, yellow, and green traditional Kente cloth. Rec'd—2/19/2008. Est. Value—$400.00. Location—Archives Foreign.	His Excellency John Agyekum Kufuor, President of the Republic of Ghana.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Black Mont Blanc fountain pen. Rec'd—10/18/2008. Est. Value—$394.00. Location—Archives Foreign.	His Excellency José Manuel Duaro Barroso, President of the Commission of the European Communities.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Framed archery set. Rec'd—4/16/2008. Est. Value—$400.00. Location—Archives Foreign.	His Excellency Lee Myung-bak, President of the Republic of Korea.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Various personalized Elord casual clothes, tennis shoes, and a baseball cap. Rec'd—8/6/2008. Est. Value—$936.00. Location—Archives Foreign.	His Excellency Lee Myung-bak, President of the Republic of Korea.	Non-acceptance would cause embarrassment to donor and U.S. Government.

AGENCY: EXECUTIVE OFFICE OF THE PRESIDENT—Continued

[Report of Tangible Gifts]

Name and title of person accepting the gift on behalf of the U.S. Government	Gift, date of acceptance on behalf of the U.S. Government, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
President	Ten Fuente OpusX cigars. Rec'd—5/6/2008. Est. Value—$330.00. Location—Handled pursuant to Secret Service policy.	His Excellency Martin Torrijos Espino, President of the Republic of Panama.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Red lacquered wood humidor made by Griffin's with a sterling silver plate engraved "43" affixed to lid and a book titled "Panama Canal." Rec'd—5/6/2008. Est. Value—$742.00. Location—Archives Foreign.	His Excellency Martin Torrijos Espino, President of the Republic of Panama.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Crystal decanter etched with the Czech Republic seal and five crystal glasses etched "G.W.B.," a signed hardcover book titled "Prague, Prag, Praha," by Miroslav Krob & Jr., a Ceska Zbrojovka CS550 shotgun, and an inscribed wood gun rack. Rec'd—2/28/2008. Est. Value—$1,885.00. Location—Archives Foreign.	His Excellency Mirek Topolanek, Prime Minister of the Czech Republic.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Brown leather Hermes saddle. Rec'd—6/13/2008. Est. Value—$6,200.00. Location—Archives Foreign.	His Excellency Nicolas Sarkozy, President of the French Republic.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Lalique crystal horse bookends. Rec'd—7/8/2008. Est. Value—$3,000.00. Location—Archives Foreign.	His Excellency Nicolas Sarkozy, President of the French Republic.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Black lacquer humidor with a silver-plated symbol of France on top and "President de la Republique Francaise" engraved on the inside and a sterling silver Waterman fountain pen. Rec'd—10/18/2008. Est. Value—$3,000.00. Location—Archives Foreign.	His Excellency Nicolas Sarkozy, President of the French Republic.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Framed gold image of the Élysée Palace in Paris, France with "Nicolas Sarkozy President de la Republique Francaise" written on the bottom and a gold and crystal "LÉpee" clock. Rec'd—11/17/2008. Est. Value—$1,559.00. Location—Archives Foreign.	His Excellency Nicolas Sarkozy, President of the French Republic.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Silver tea set including teapot, cream, and sugar containers. Rec'd—3/24/2008. Est. Value—$650.00. Location—Archives Foreign.	His Excellency Pranab Kumar Mukherjee, Minister of External Affairs of the Republic of India.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Silver filigree bowl. Rec'd—4/25/2008. Est. Value—$350.00. Location—Archives Foreign.	His Excellency Sali Berisha, Prime Minister of the Republic of Albania.	Non-acceptance would cause embarrassment to donor and U.S. Government.

AGENCY: EXECUTIVE OFFICE OF THE PRESIDENT—Continued

[Report of Tangible Gifts]

Name and title of person accepting the gift on behalf of the U.S. Government	Gift, date of acceptance on behalf of the U.S. Government, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
President	Four books titled ''Glorious Celebrations of the Reign: The Celebrations of the 60th Anniversary of His Majesty the King's Accession to the Throne'' (2), ''The Royal Kingdom of Thailand: Fifty Years of a Golden Reign,'' ''Arts of the Kingdom,'' and ''Bangkok Then and Now,'' by Steven Van Beek, and a wood jewelry box with the seal of The Royal Thai Government in gold and lined with green velvet. Rec'd—8/6/2008. Est. Value—$1,125.00. Location—Archives Foreign.	His Excellency Samak Sundaravej, Prime Minister of Kingdom of Thailand.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Six wooden replicas of ancient Kuwaiti ships held in a wood box with 4 engraved gold plates. Rec'd—3/4/2008. Est. Value—$414.00. Location—Archives Foreign.	His Excellency Sheikh Mesh'al Al-Ahmad Al-Jaber Al-Sabah, Deputy Chief, Kuwaiti National Guard, Kuwait.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Silver and gold falcon sculpture and a gold model of the Kuwait City landscape in a crystal cube. Rec'd—9/18/2008. Est. Value—$15,237.00. Location—Archives Foreign.	His Excellency Sheikh Nasser Mohammad Al Sabah, Prime Minister of the State of Kuwait.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Bronze statue on a marble pedestal representing a young girl with butterfly wings symbolizing the Spring offering the laurel to the Winner and twelve E. Marinella ties. Rec'd—6/13/2008. Est. Value—$5,120.00. Location—Archives Foreign.	His Excellency Silvio Berlusconi, President of the Council of Ministers of the Italian Republic.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Twelve E. Marinella ties. Rec'd—7/8/2008. Est. Value—$1,620.00. Location—Archives Foreign.	His Excellency Silvio Berlusconi, President of the Council of Ministers of the Italian Republic.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	15″ white ceramic ''Liberty'' vase with three women dancing, numbered 200 of 500, and twelve E. Marinella ties. Rec'd—10/13/2008. Est. Value—$2,460.00. Location—Archives Foreign.	His Excellency Silvio Berlusconi, President of the Council of Ministers of the Italian Republic.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Various Christmas decorations including ornaments, a papier mache Santa Claus, 14″ decorative crystal tree, and napkins. Rec'd—12/17/2007. Est. Value—$742.00. Location—Archives Foreign.	His Excellency Saqr Ghobash Saeed Ghobash, Ambassador of the United Arab Emirates.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Two Royal Crown Derby plates in the ''Gold Aves'' pattern. Rec'd—12/17/2007. Est. Value—$300.00. Location—Transferred to GSA.	His Excellency Saqr Ghobash Saeed Ghobash, Ambassador of the United Arab Emirates.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Two Royal Crown Derby plates in the ''Gold Aves'' pattern. Rec'd—12/17/2007. Est. Value—$300.00. Location—President retained.	His Excellency Saqr Ghobash Saeed Ghobash, Ambassador of the United Arab Emirates.	Non-acceptance would cause embarrassment to donor and U.S. Government.

AGENCY: EXECUTIVE OFFICE OF THE PRESIDENT—Continued

[Report of Tangible Gifts]

Name and title of person accepting the gift on behalf of the U.S. Government	Gift, date of acceptance on behalf of the U.S. Government, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
President	Bottle of Kutjevo wine. Rec'd—4/4/2008. Est. Value—$50.00. Location—Handled pursuant to Secret Service policy.	His Excellency Stjepan Mesic, President of the Republic of Croatia.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Leather photo album with photos of President Bush's trip to Croatia, a wood model of an antique Croatian ship called a "Bracera," and an XD–9 semi-automatic pistol and XD semi-automatic pistol. Rec'd—4/4/2008. Est. Value—$1,763.00. Location—Archives Foreign.	His Excellency Stjepan Mesic, President of the Republic of Croatia.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Household Item: Large 3-tier wooden frame with handcarved designs. Rec'd—6/5/2008. Est. Value—$2,000.00. Location—Archives Foreign.	His Excellency Syed Yousaf Raza Gillani, Prime Minister of the Islamic Republic of Pakistan.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Gold-plated SMG PK Caliber 9mm gun and an inscribed book titled "Reconciliation: Islam, Democracy, and the West" by Benazir Bhutto. Rec'd—7/28/2008. Est. Value—$778.00. Location—Archives Foreign.	His Excellency Syed Yousaf Raza Gillani, Prime Minister of the Islamic Republic of Pakistan.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Personalized letterman jacket images of Barney, Miss Beazley, and India on the back, two G8 commemorative coins, and an inscribed book by Sakie Yokota. Rec'd—7/8/2008. Est. Value—$404.00. Location—Archives Foreign.	His Excellency Yasuo Fukuda, Prime Minister of Japan.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	"The Order of Zayed" gold necklace with emeralds, diamonds, and rubies with gold medallion and certificate and a multicolored vase with the coat of arms of the United Arab Emirates. Rec'd—1/13/2008. Est. Value—$86,500.00. Location—Archives Foreign.	His Highness Sheikh Khalifa bin Zayed Al Nahyan, President of the United Arab Emirates.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	5′ × 6′ framed abstract painting of the letter "W" by Abdul Kader El Rayes. Rec'd—8/8/2008. Est. Value—$4,000.00. Location—Archives Foreign.	His Highness Sheikh Mohammed bin Rashid al-Maktoum, Vice President and Prime Minister of the United Arab Emirates.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Silver William & Son fountain pen and a book titled "Mosaic: A journey through the multi-faceted world of Bahrain's Arts and Crafts," by Dr. Ali Hasan Follad. Rec'd—9/8/2008. Est. Value—$650.00. Location—Archives Foreign.	His Highness Sheikh Salman bin Hamad bin Isa Al-Khalifa, Crown Prince of the Kingdom of Bahrain and Head of the Bahrain Defense Force.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Framed 13½″ × 23½″ "St. Petersburg Square" mosaic. Rec'd—4/15/2008. Est. Value—$2,500.00. Location—Archives Foreign.	His Holiness Pope Benedict XVI ..	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Bouquet of flowers and thirty-eight boxes of assorted Godiva chocolates. Rec'd—7/8/2008. Est. Value—$1,170.00. Location—Handled pursuant to Secret Service policy.	His Majesty Mohammed VI, King of Morocco.	Non-acceptance would cause embarrassment to donor and U.S. Government.

AGENCY: EXECUTIVE OFFICE OF THE PRESIDENT—Continued

[Report of Tangible Gifts]

Name and title of person accepting the gift on behalf of the U.S. Government	Gift, date of acceptance on behalf of the U.S. Government, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
President	Decoration of the Order of Sheikh Isa bin Salman Al Khalifa with certificate and a gold date palm tree on stand with pearls. Rec'd—1/12/2008. Est. Value—$26,450.00. Location—Archives Foreign.	His Majesty Shaikh Hamad Bin Isa Bin Salman Al-Khalifa, King of the Kingdom of Bahrain.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Two blue, tan, and off-white vases with painted images of horses and birds and a book titled ''The Historical Photos of the American Hospital & Documents Related to the American Hospital.'' Rec'd—3/24/2008. Est. Value—$3,694.00. Location—Archives Foreign.	His Majesty Shaikh Hamad Bin Isa Bin Salman Al-Khalifa, King of the Kingdom of Bahrain.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	A limited edition (2/100) 10″ Faberge elephant, a limited edition (42/500) book titled ''Luc Leestemaker'' by Luc Leestemaker with framed 5″ × 6″ original painting by the artist, and a 4″ gold and brass filigree and enameled jeweled Faberge egg with small egg pendant necklace. Rec'd—1/3/2008. Est. Value—$4,750.00. Location—Archives Foreign.	His Majesty Sultan Haji Hassanal Bolkiah Mu'izzaddin Waddaulah, Sultan and Yang Di-Pertuan of Brunei Darussalam.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Various chocolates, cookies, corn relish, and spirited cherries. Rec'd—1/3/2008 Est. Value—$60.00. Location—Handled pursuant to Secret Service policy.	His Majesty Sultan Haji Hassanal Bolkiah Mu'izzaddin Waddaulah, Sultan and Yang Di-Pertuan of Brunei Darussalam.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Framed 31″ × 46½″ painting of the First Family. Rec'd—4/9/2008. Est. Value—$3,500.00. Location—Archives Foreign.	Mr. Behgjet Pacolli, Chairman, New Kosovo Alliance.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	30″ mother of pearl vase. Rec'd—1/8/2008. Est. Value—$500.00. Location—Archives Foreign.	Mr. Mahmoud Abbas, President of the Palestinian Authority.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Framed 28½″ × 30½″ painting of a woman playing the flute. Rec'd—4/23/2008. Est. Value—$350.00. Location—Archives Foreign.	Mr. Mahmoud Abbas, President of the Palestinian Authority.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	3″ red painted sake cup with hand painted design and personalized with the President's initials. Rec'd—7/8/2008 Est. Value—$1,000.00. Location—Archives Foreign.	Mrs. Kiyoko Fukuda, Office of the Prime Minister and Chief Cabinet Secretary, Office of the Prime Minister of Japan.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Signed leather bound book titled ''Australia: An Artist's Journey Through The Landscape'' by Pamela Griffith. Rec'd—3/28/2008. Est. Value—$1,200.00. Location—Archives Foreign.	The Honorable Kevin Rudd, M.P., Prime Minister of Australia.	Non-acceptance would cause embarrassment to donor and U.S. Government.

AGENCY: EXECUTIVE OFFICE OF THE PRESIDENT—Continued

[Report of Tangible Gifts]

Name and title of person accepting the gift on behalf of the U.S. Government	Gift, date of acceptance on behalf of the U.S. Government, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
President	Small gold plaque with the Kurdistan seal, scabbard with hand-carved wood handle and sheath, and a traditional Kurdish tan suit, including a zip-up jacket, drawstring slacks, a sheer patterned scarf, two red and white headscarves, and a small cap, all held in a black Tumi garment bag. Rec'd—10/28/2008. Est. Value—$2,209.00. Location—Archives Foreign.	The Honorable Masoud Barzani, President of the Kurdistan Regional Government.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	A brown tie with multicolored stripes, a red tie with floral designs, and a black and blue dotted tie. Rec'd—4/16/2008. Est. Value—$390.00. Location—Archives Foreign.	The Right Honorable James Gordon Brown, M.P., Prime Minister.	Non-acceptance would cause embarrassment to donor and U.S. Government.
President	Box of Rococo chocolates. Rec'd—4/16/2008. Est. Value—$94.00. Location—Handled pursuant to Secret Service policy.	The Right Honorable James Gordon Brown, M.P., Prime Minister.	Non-acceptance would cause embarrassment to donor and U.S. Government.
First Lady	White and blue Meissen tea set with two tea cups, two saucers, and four plates. Rec'd—6/10/2008. Est. Value—$772.00. Location—Archives Foreign.	Her Excellency Angela Merkel, Chancellor of the Federal Republic of Germany.	Non-acceptance would cause embarrassment to donor and U.S. Government.
First Lady	Two 5″ tall sterling silver and colored maple wood candle holders by Lev Shneiderman and a 3″ hammered gold dove pin. Rec'd—5/15/2008. Est. Value—$205.00. Location—Archives Foreign.	Her Excellency Dali Itzik, Speaker of the Knesset of Israel.	Non-acceptance would cause embarrassment to donor and U.S. Government.
First Lady	Ahava Bath + Beauty set in blue AHAVA travel case. Rec'd—5/15/2008. Est. Value—$150.00. Location—Handled pursuant to Secret Service policy.	Her Excellency Dali Itzik, Speaker of the Knesset of Israel.	Non-acceptance would cause embarrassment to donor and U.S. Government.
First Lady	Gold brooch with Liberian seal, black sash with multicolored details and embroidered with ''Mrs. Bush'' and ''Akwabaa,'' a green sash with the Grand Cordon in the Most Venerable Order of the Knighthood of the Pioneers gold-tone medal with 4″ silver brooch replica of the Grand Cordon in the Most Venerable Order of the Pioneers medal, and an award certificate signed by Her Excellency Ellen Johnson Sirleaf. Rec'd—2/19/2008. Est. Value—$1,085.00. Location—Archives Foreign.	Her Excellency Ellen Johnson Sirleaf, President of the Republic of Liberia.	Non-acceptance would cause embarrassment to donor and U.S. Government.
First Lady	3″ 18 carat gold bamboo broach with a golden Southsea pearl and a genuine stingray leather jewelry box. Rec'd—6/24/2008. Est. Value—$960.00. Location—Archives Foreign.	Her Excellency Gloria Macapagal-Arroyo, President of the Republic of the Philippines.	Non-acceptance would cause embarrassment to donor and U.S. Government.

AGENCY: EXECUTIVE OFFICE OF THE PRESIDENT—Continued

[Report of Tangible Gifts]

Name and title of person accepting the gift on behalf of the U.S. Government	Gift, date of acceptance on behalf of the U.S. Government, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
First Lady	Two 8″ × 10″ framed photos of divers, a CD, two 4″ × 6″ framed photos of Mrs. Bush and Her Excellency Nouria Al-Subaih, and a small sterling silver bird figurine held in a frame. Rec'd—2/25/2008. Est. Value—$336.00. Location—Archives Foreign.	Her Excellency Nouria Al-Subaih, Minister of Education and Higher Education, Kuwait.	Non-acceptance would cause embarrassment to donor and U.S. Government.
First Lady	Seven large silk fabrics held in an ivory silk case. Rec'd—5/16/2008. Est. Value—$9,819.00. Location—Archives Foreign.	Her Royal Highness Hessa bint Trad Al-Shaalan, Princess, Riyadh.	Non-acceptance would cause embarrassment to donor and U.S. Government.
First Lady	5″ × 7″ antique silver jeweled box with traditional design and twenty-one 3″ silver symbolic Tuareg crosses held in a traditional decorative wooden frame. Rec'd—9/24/2008. Est. Value—$789.00. Location—Archives Foreign.	His Excellency Abdelaziz Bouteflika, President of the People's Democratic Republic of Algeria.	Non-acceptance would cause embarrassment to donor and U.S. Government.
First Lady	17″ × 51″ raw silk embroidered table runner. Rec'd—1/7/2008. Est. Value—$445.00. Location—Archives Foreign.	His Excellency Abdullah Gul, President of the Republic of Turkey.	Non-acceptance would cause embarrassment to donor and U.S. Government.
First Lady	Large kora (traditional string instrument from Mali). Rec'd—2/12/2008. Est. Value—$400.00. Location—Archives Foreign.	His Excellency Amadou Toumani Touré, President of the Republic of Mali.	Non-acceptance would cause embarrassment to donor and U.S. Government.
First Lady	Burgundy patent leather jewelry box and matching purse. Rec'd—10/30/2008. Est. Value—$563.00. Location—Archives Foreign.	His Excellency Asif Ali Zardari, President of the Islamic Republic of Pakistan.	Non-acceptance would cause embarrassment to donor and U.S. Government.
First Lady	72″ × 144″ double damask satin linen tablecloth by Thomas Furguson. Rec'd—3/17/2008. Est. Value—$429.00. Location—Archives Foreign.	His Excellency Bertie Ahern, T.D., Prime Minister of Ireland.	Non-acceptance would cause embarrassment to donor and U.S. Government.
First Lady	12 white linen napkins with multicolored animals with matching 48″ × 60″ white table linen and native dress with jems and embroidered details. Rec'd—2/16/2008. Est. Value—$600.00. Location—Archives Foreign.	His Excellency Boni Yayi and Mrs. Chantal Jean De Souza Yayi, President of the Republic of Benin.	Non-acceptance would cause embarrassment to donor and U.S. Government.
First Lady	11″ blue lapis vase with floral inlay. Rec'd—4/3/2008. Est. Value—$550.00. Location—Archives Foreign.	His Excellency Dr. Hamid Karzai, President of the Islamic Republic of Afghanistan.	Non-acceptance would cause embarrassment to donor and U.S. Government.
First Lady	4″ silver Hoopoe bird with Indian enameling known as Meenakari designed by Blue Bird and four "Sound Scapes: Music of the Deserts, Valleys, Rivers and Mountains" CD set. Rec'd—9/25/2008. Est. Value—$650.00. Location—Archives Foreign.	His Excellency Dr. Manmohan Singh, Prime Minister of the Republic of India.	Non-acceptance would cause embarrassment to donor and U.S. Government.
First Lady	14″ ornately painted gourd with traditional design and removable lid. Rec'd—3/13/2008. Est. Value—$350.00. Location—Archives Foreign.	His Excellency Felipe de Jesus Calderon Hinojosa, President of the United Mexican States.	Non-acceptance would cause embarrassment to donor and U.S. Government.

AGENCY: EXECUTIVE OFFICE OF THE PRESIDENT—Continued

[Report of Tangible Gifts]

Name and title of person accepting the gift on behalf of the U.S. Government	Gift, date of acceptance on behalf of the U.S. Government, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
First Lady	Gold necklace, earrings, and bracelet set featuring symbols of Ghana. Rec'd—2/21/2008. Est. Value—$2,000.00. Location—Archives Foreign.	His Excellency John Agyekum Kufuor, President of the Republic of Ghana.	Non-acceptance would cause embarrassment to donor and U.S. Government.
First Lady	White china tea set with blue accents by Young Sook Park, an assortment of personalized Elord casual wear, a pink silk scarf, tennis shoes, and a personalized baseball cap. Rec'd—4/16/2008. Est. Value—$1,382.00. Location—Archives Foreign.	His Excellency Lee Myung-bak, President of the Republic of Korea, Seoul.	Non-acceptance would cause embarrassment to donor and U.S. Government.
First Lady	White porcelain rose held on a wooden stand. Rec'd—10/18/2008. Est. Value—$450.00. Location—Archives Foreign.	His Excellency Nicolas Sarkozy, President of the French Republic.	Non-acceptance would cause embarrassment to donor and U.S. Government.
First Lady	Six E. Marinella silk scarves. Rec'd—6/12/2008. Est. Value—$1,920.00. Location—Archives Foreign.	His Excellency Silvio Berlusconi, President of the Council of Ministers of the Italian Republic.	Non-acceptance would cause embarrassment to donor and U.S. Government.
First Lady	Three multicolored E. Marinella silk scarves. Rec'd—10/13/2008. Est. Value—$480.00. Location—Archives Foreign.	His Excellency Silvio Berlusconi, President of the Council of Ministers of the Italian Republic.	Non-acceptance would cause embarrassment to donor and U.S. Government.
First Lady	20″ × 24″ framed embroidered artwork of a vase with various purple flowers. Rec'd—1/28/2008. Est. Value—$350.00. Location—Archives Foreign.	His Excellency Sun Jiazheng, Minister of Culture of the People's Republic of China.	Non-acceptance would cause embarrassment to donor and U.S. Government.
First Lady	White sheer scarf with silver details and a traditional Romanian folk costume including a robe, gold silk head scarf, skirt, and a belt. Rec'd—4/1/2008. Est. Value—$766.00. Location—Archives Foreign.	His Excellency Traian Basescu and Mrs. Maria Basescu, President and First Lady of Romania.	Non-acceptance would cause embarrassment to donor and U.S. Government.
First Lady	Two 15″ hand-painted carved wooden statues in traditional male and female Ukranian attire. Rec'd—9/29/2008. Est. Value—$600.00. Location—Archives Foreign.	His Excellency Viktor Andriyovych Yushchenko, President of Ukraine.	Non-acceptance would cause embarrassment to donor and U.S. Government.
First Lady	Large silver traditional necklace with bells, embroidered fur-lined traditional wrap, beaded traditional head cover with tassels, yellow traditional beaded robe, and a book titled ''Traditional Crafts of Saudi Arabia'' by John Topham. Rec'd—1/15/2008. Est. Value—$4,085.00. Location—Archives Foreign.	His Royal Highness Sultan Bin Salman bin Abdulaziz Al Saud, Secretary General, Supreme Commission for Tourism, Riyadh.	Non-acceptance would cause embarrassment to donor and U.S. Government.
First Lady	Green pashmina wrap with embroidered peach and burgundy floral design. Rec'd—7/28/2008. Est. Value—$387.00. Location—Archives Foreign.	Mrs. Begum Fauzia Gillani, Office of the Prime Minister of The Islamic Republic of Pakistan.	Non-acceptance would cause embarrassment to donor and U.S. Government.
First Lady	10″ black quilted silk Chanel handbag with silver chain. Rec'd—6/13/2008. Est. Value—$1,500.00. Location—Archives Foreign.	Mrs. Carla Sarkozy, Office of the President of the Republic of France.	Non-acceptance would cause embarrassment to donor and U.S. Government.

AGENCY: EXECUTIVE OFFICE OF THE PRESIDENT—Continued

[Report of Tangible Gifts]

Name and title of person accepting the gift on behalf of the U.S. Government	Gift, date of acceptance on behalf of the U.S. Government, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
First Lady	Ornate Turkish silver mirror with lace envelope and two books titled ''My Name is Red,'' by Orhan Pamuk and Erdag Goknar and ''Hagia Sophia: A Vision for Empires.'' Rec'd—1/18/2008. Est. Value—$520.00. Location—Archives Foreign.	Mrs. Fatma Gulgun Sensoy, Embassy of the Republic of Turkey.	Non-acceptance would cause embarrassment to donor and U.S. Government.
First Lady	17″ × 51″ raw silk embroidered table runner. Rec'd—1/7/2008. Est. Value—$445.00. Location—Archives Foreign.	Mrs. Hayrünnisa Gül, Office of Minister of Foreign Affairs of the Republic of Turkey.	Non-acceptance would cause embarrassment to donor and U.S. Government.
First Lady	2″ pink enamel carnation pendant on gold chain by Master Avedis. Rec'd—9/22/2008. Est. Value—$550.00. Location—Archives Foreign.	Mrs. Hayrünnisa Gül, Office of Minister of Foreign Affairs of the Republic of Turkey.	Non-acceptance would cause embarrassment to donor and U.S. Government.
First Lady	Brown and gold beaded basket and a Rwandan table set including brown and gold beaded placemats, napkin rings, and coasters held in matching beaded container with lid. Rec'd—2/18/2008. Est. Value—$385.00. Location—Archives Foreign.	Mrs. Jeannette Kagame, First Lady of Rwanda.	Non-acceptance would cause embarrassment to donor and U.S. Government.
First Lady	A book in Japanese about protecting the Eart, nine sketches of various families protecting the environment, a ''Kobuskusa'' (small decorative cloth), purple silk scarf, small hand painted bamboo bowl, a hand painted red sake cup personalized with Mrs. Bush's initials, hand painted seashells, papier mache masks of President and Mrs. Bush, a framed origami American flag, a woven obi with gold and silver leaf pattern, a small decorative bean bag doll on a clear stand, two small painted stress balls, and a book titled ''Gift Wrapping with Textiles: Stylish Ideas from Japan,'' by Chizuko Morita. Rec'd—7/8/2008. Est. Value—$4,585.00. Location—Archives Foreign.	Mrs. Kiyoko Fukuda, Office of the Prime Minister and Chief Cabinet Secretary, Office of the Prime Minister of Japan.	Non-acceptance would cause embarrassment to donor and U.S. Government.
First Lady	White sheer scarf with silver details and a traditional Romanian folk costume including a robe, gold silk head scarf, skirt, and a belt. Rec'd—4/1/2008. Est. Value—$766.00. Location—Archives Foreign.	Mrs. Maria Basescu, Office of the President of Romania.	Non-acceptance would cause embarrassment to donor and U.S. Government.
First Lady	Local vegetable floral arrangement. Rec'd—11/22/2008. Est. Value—$50.00. Location—Handled pursuant to Secret Service policy.	Mrs. Pilar Nores de Garcia, The First Lady of the Republic of Peru, Palacio de Gobierno, Plaza de Arnas, Lima.	Non-acceptance would cause embarrassment to donor and U.S. Government.

AGENCY: EXECUTIVE OFFICE OF THE PRESIDENT—Continued

[Report of Tangible Gifts]

Name and title of person accepting the gift on behalf of the U.S. Government	Gift, date of acceptance on behalf of the U.S. Government, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
First Lady	7″ silver spoon pin with red stone in center and Peruvian designs, colorful traditional Peruvian woven table runner, and a book titled "The Incas: Art and Symbols." Rec'd—11/22/2008. Est. Value—$312.00. Location—Archives Foreign.	Mrs. Pilar Nores de Garcia, The First Lady of the Republic of Peru, Palacio de Gobierno, Plaza de Arnas, Lima.	Non-acceptance would cause embarrassment to donor and U.S. Government.
First Lady	55″ × 55″ beige silk scarf with gold details by Valentin Yudashkin. Rec'd—7/8/2008. Est. Value—$390.00. Location—Archives Foreign.	Mrs. Svetlana Medvedeva, Office of the President of the Russian Federation.	Non-acceptance would cause embarrassment to donor and U.S. Government.
First Lady	Stainless steel set of 12 knives, forks, and spoons and one serving spatula with traditional Lebanese design on handles by S & S Haddad. Rec'd—9/23/2008. Est. Value—$900.00. Location—Archives Foreign.	Mrs. Wafaa Sleiman, Office of the President of The Republic of Lebanon.	Non-acceptance would cause embarrassment to donor and U.S. Government.
First Lady	Dark blue silk scarf and a 13 piece white porcelain tea set with brown and gold details handmade by Slovenian artists. Rec'd—6/9/2008. Est. Value—$501.00. Location—Archives Foreign.	Ms. Urska Bacovnik, Office of the Prime Minister of the Republic of Slovenia.	Non-acceptance would cause embarrassment to donor and U.S. Government.
First Lady	8″ ornately hand carved traditional wooden elephant with small elephant inside and enamel design. Rec'd—9/22/2008. Est. Value—$700.00. Location—Archives.	The Honorable Daggubati Purandeswari, Minister of State for Human Resource Development, Republic of India.	Non-acceptance would cause embarrassment to donor and U.S. Government.
First Lady	36″ × 48″ colorful embroidered cloth and a traditional Kurdish outfit with metallic copper-colored vest and pants with a sheer beaded patterned robe. Rec'd—10/28/2008. Est. Value—$473.00. Location—Archives Foreign.	The Honorable Masoud Barzani, President of the Kurdistan Regional Government.	Non-acceptance would cause embarrassment to donor and U.S. Government.
First Lady	Floral arrangement of roses and orchids and assorted chocolates by Lenotre Paris. Rec'd—11/4/2008. Est. Value—$1,791.00. Location—Handled pursuant to Secret Service policy.	His Majesty Mohammed VI, King of Morocco.	Non-acceptance would cause embarrassment to donor and U.S. Government.
First Family	Eight East African Blackwood carved wooden statues, two carved wood wall plaques, and four framed paintings of native people, animals, and scenery. Rec'd—2/18/2008. Est. Value—$8,815.00. Location—Archives Foreign.	Mr. Kabissa, Deputy Chief of Protocol, Embassy of the United Republic of Tanzania.	Non-acceptance would cause embarrassment to donor and U.S. Government.
First Family	Crystal bowl with "10 Downing Street" etched around the rim. Rec'd—6/16/2008. Est. Value—$1,300.00. Location—Archives Foreign.	The Right Honorable James Gordon Brown, M.P., Prime Minister, London.	Non-acceptance would cause embarrassment to donor and U.S. Government.

AGENCY: EXECUTIVE OFFICE OF THE PRESIDENT—Continued

[Report of Tangible Gifts]

Name and title of person accepting the gift on behalf of the U.S. Government	Gift, date of acceptance on behalf of the U.S. Government, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
First Family	Porcelain tea set painted with colorful churches and flowers stamped ''St. Petersberg 1744'' underneath each piece. Rec'd—4/6/2008. Est. Value—$2,444.00. Location—Archives Foreign.	His Excellency Vladimir Putin, Chairman of the Government of the Russian Federation, Moscow.	Non-acceptance would cause embarrassment to donor and U.S. Government.
First Family	68″ red, white, and blue beaded American flag spear with 20'' matching red, white, and blue beaded American flag shield and a 38'' green, blue, and yellow beaded walking stick held in a woven basket. Rec'd—2/18/2008. Est. Value—$4,200.00. Location—Archives Foreign.	His Excellency Paul Kagame, President of the Republic of Rwanda, Kigali.	Non-acceptance would cause embarrassment to donor and U.S. Government.
First Family	Wood vase made from spalted crabapple, by Garry Bowes. Rec'd—7/24/2008. Est. Value—$350.00. Location—Archives Foreign.	The Right Honorable Stephen Harper, P.C., M.P., Prime Minister of Canada, Ottawa.	Non-acceptance would cause embarrassment to donor and U.S. Government.
First Family	Various photos of His Excellency and Mrs. Lee Myung-bak with President and Mrs. George H.W. Bush and President and Mrs. George W. Bush in a digital frame and a photo album, three pieces of artwork featuring President and Mrs. Bush, and several books about Korean culture and history. Rec'd—4/16/2008. Est. Value—$3,927.00. Location—Archives Foreign.	His Excellency Lee Myung-bak, President of the Republic of Korea, Seoul.	Non-acceptance would cause embarrassment to donor and U.S. Government.
First Family	Artwork: 6½″ × 9″ signed photo of President and Mrs. Bush praying with His Holiness Pope Benedict XVI in the Oval Office; held in 11½″ × 15″ sterling silver frame with gold Vatican coat of arms and a hardcover book titled ''The Basilica of St. Peter in the Vatican.'' Rec'd—6/13/2008. Est. Value—$1,210.00. Location—Archives Foreign.	His Holiness Pope Benedict XVI, Vatican City.	Non-acceptance would cause embarrassment to donor and U.S. Government.
White House Staff Member. Abrams, Elliott.	Jewelry set including men's and women's diamond watches, diamond bracelet, earrings, cufflinks, and ring, and a Tiffany and Co. Atlas pen. Rec'd—1/14/2008. Est. Value—$14,600.00. Location—Transferred to General Services Administrations.	Abdullah bin Abd al-Aziz Al Saud, Custodian of the Two Holy Mosques, King of the Kingdom of Saudi Arabia.	Non-acceptance would cause embarrassment to donor and U.S. Government.
White House Staff Member. Abrams, Elliott.	Large brown robe lined with wool. Rec'd—1/15/2008. Est. Value—$550.00. Location—Transferred to General Services Administrations.	Abdullah bin Abd al-Aziz Al Saud, Custodian of the Two Holy Mosques, King of the Kingdom of Saudi Arabia.	Non-acceptance would cause embarrassment to donor and U.S. Government.
White House Staff Member. Abrams, Elliott.	Framed 10″ × 14″ multicolored abstract painting with Arabic symbols. Rec'd—8/7/2008. Est. Value—$800.00. Location—Transferred to General Services Administrations.	Abdullah bin Abd al-Aziz Al Saud, Custodian of the Two Holy Mosques, King of the Kingdom of Saudi Arabia.	Non-acceptance would cause embarrassment to donor and U.S. Government.

AGENCY: EXECUTIVE OFFICE OF THE PRESIDENT—Continued

[Report of Tangible Gifts]

Name and title of person accepting the gift on behalf of the U.S. Government	Gift, date of acceptance on behalf of the U.S. Government, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
White House Staff Member. Abrams, Elliott.	7″ gold vermeil statue of a falcon on a jasper stand. Rec'd—1/14/2008. Est. Value—$500.00. Location—Transferred to General Services Administrations.	His Highness Sheikh Khalifa bin Zayed Al Nahyan, President of the United Arab Emirates.	Non-acceptance would cause embarrassment to donor and U.S. Government.
White House Staff Member. Ansley, Judith.	Two E. Marinella silk scarves. Rec'd—6/12/2008. Est. Value—$490.00. Location—Transferred to General Services Administrations.	His Excellency Silvio Berlusconi, President of the Council of Ministers of the Italian Republic.	Non-acceptance would cause embarrassment to donor and U.S. Government.
White House Staff Member. Bolten, Joshua B.	Jewelry set including men's and women's diamond watches, diamond bracelet, earrings, cufflinks, and ring, and a Tiffany and Co. Atlas pen. Rec'd—1/14/2008. Est. Value—$10,225.00. Location—Transferred to General Services Administrations.	Abdullah bin Abd al-Aziz Al Saud, Custodian of the Two Holy Mosques, King of the Kingdom of Saudi Arabia.	Non-acceptance would cause embarrassment to donor and U.S. Government.
White House Staff Member. Bolten, Joshua B.	Large black robe with gold accents lined with wool. Rec'd—1/15/2008. Est. Value—$550.00. Location—Transferred to General Services Administrations.	Abdullah bin Abd al-Aziz Al Saud, Custodian of the Two Holy Mosques, King of the Kingdom of Saudi Arabia.	Non-acceptance would cause embarrassment to donor and U.S. Government.
White House Staff Member. Bolten, Joshua B.	64″ × 45″ Afghan wool rug with burgundy, brown, blue and orange repeating geometric patterns with 2'' beige fringe. Rec'd—5/17/2008. Est. Value—$480.00. Location—Transferred to General Services Administrations.	His Excellency Dr. Hamid Karzai, President of the Islamic Republic of Afghanistan.	Non-acceptance would cause embarrassment to donor and U.S. Government.
White House Staff Member. Bolten, Joshua B.	37″ × 58″ yellow and burgundy woven rug with floral design. Rec'd—12/14/2008. Est. Value—$1,800.00. Location—Transferred to General Services Administrations.	His Excellency Jalal Talabani, President of the Republic of Iraq.	Non-acceptance would cause embarrassment to donor and U.S. Government.
White House Staff Member. Bolten, Joshua B.	Pair of black platinum plated Delta pens with ink and leather case. Rec'd—6/12/2008. Est. Value—$480.00. Location—Transferred to General Services Administrations.	His Excellency Silvio Berlusconi, President of the Council of Ministers of the Italian Republic.	Non-acceptance would cause embarrassment to donor and U.S. Government.
White House Staff Member. Bolten, Joshua B.	7″ gold vermeil horse on a green marble stand. Rec'd—1/14/2008. Est. Value—$500.00. Location—Transferred to General Services Administrations.	His Highness Sheikh Khalifa bin Zayed Al Nahyan, President of the United Arab Emirates.	Non-acceptance would cause embarrassment to donor and U.S. Government.
White House Staff Member. Bolten, Joshua B.	29″ × 41″ abstract multicolored painting of a man sitting; held in a silver-tone frame. Rec'd—8/7/2008. Est. Value—$2,500.00. Location—Transferred to General Services Administrations.	His Highness Sheikh Mohammed bin Rashid al-Maktoum, Vice President and Prime Minister of the United Arab Emirates.	Non-acceptance would cause embarrassment to donor and U.S. Government.
White House Staff Member. Gillespie, Edward.	Jewelry set including a men's diamond watch, diamond earrings, bracelet, cufflinks, and ring, and a Tiffany and Co. Atlas pen. Rec'd—1/14/2008. Est. Value—$13,200.00. Location—Transferred to General Services Administrations.	Abdullah bin Abd al-Aziz Al Saud, Custodian of the Two Holy Mosques, King of the Kingdom of Saudi Arabia.	Non-acceptance would cause embarrassment to donor and U.S. Government.

AGENCY: EXECUTIVE OFFICE OF THE PRESIDENT—Continued

[Report of Tangible Gifts]

Name and title of person accepting the gift on behalf of the U.S. Government	Gift, date of acceptance on behalf of the U.S. Government, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
White House Staff Member. Gillespie, Edward.	7″ × 4½″ × 2″ lapis box with stone floral design on hinged lid. Rec'd—5/17/2008. Est. Value—$420.00. Location—Transferred to General Services Administrations.	His Excellency Dr. Hamid Karzai, President of the Islamic Republic of Afghanistan.	Non-acceptance would cause embarrassment to donor and U.S. Government.
White House Staff Member. Gillespie, Edward.	Pair of black platinum plated Delta pens with ink and leather case. Rec'd—6/12/2008. Est. Value—$480.00. Location—Handled pursuant to Secret Service policy.	His Excellency Silvio Berlusconi, President of the Council of Ministers of the Italian Republic.	Non-acceptance would cause embarrassment to donor and U.S. Government.
White House Staff Member. Gillespie, Edward.	5″ gold vermeil horse on a green marble stand. Rec'd—1/14/2008. Est. Value—$350.00. Location—Transferred to General Services Administrations.	His Highness Sheikh Khalifa bin Zayed Al Nahyan, President of the United Arab Emirates.	Non-acceptance would cause embarrassment to donor and U.S. Government.
White House Staff Member. Hadley, Stephen.	Jewelry set including men's and women's watches, diamond ring, bracelet, earrings, and cufflinks, and a Tiffany and Co. Atlas pen. Rec'd—1/14/2008. Est. Value—$15,050.00. Location—Transferred to General Services Administrations.	Abdullah bin Abd al-Aziz Al Saud, Custodian of the Two Holy Mosques, King of the Kingdom of Saudi Arabia.	Non-acceptance would cause embarrassment to donor and U.S. Government.
White House Staff Member. Hadley, Stephen.	Clothing: Large brown robe with gold accents lined with wool; held in a green and white trunk. Rec'd—1/15/2008. Est. Value—$550.00. Location—Transferred to General Services Administrations.	Abdullah bin Abd al-Aziz Al Saud, Custodian of the Two Holy Mosques, King of the Kingdom of Saudi Arabia.	Non-acceptance would cause embarrassment to donor and U.S. Government.
White House Staff Member. Hadley, Stephen.	9″ sterling silver plate with blue and red floral design on tile insert. Rec'd—6/5/2008. Est. Value—$602.00. Location—Transferred to General Services Administrations.	His Excellency Ali Babacan, Minister of Foreign Affairs and Chief EU Negotiator of the Republic of Turkey.	Non-acceptance would cause embarrassment to donor and U.S. Government.
White House Staff Member. Hadley, Stephen.	6¼″ white octagon-shaped inlaid jewelry box with floral design on the lid. Rec'd—9/26/2008. Est. Value—$390.00. Location—Transferred to General Services Administrations.	His Excellency Dr. Manmohan Singh, Prime Minister of the Republic of India.	Non-acceptance would cause embarrassment to donor and U.S. Government.
White House Staff Member. Hadley, Stephen.	Pair of black platinum plated Delta pens with ink and leather case. Rec'd—6/12/2008. Est. Value—$480.00. Location—Transferred to General Services Administrations.	His Excellency Silvio Berlusconi, President of the Council of Ministers of the Italian Republic.	Non-acceptance would cause embarrassment to donor and U.S. Government.
White House Staff Member. Hadley, Stephen.	Black leather suitcase with combination locks. Rec'd—8/5/2008. Est. Value—$356.00. Location—Transferred to General Services Administrations.	His Excellency Syed Yousaf Raza Gillani, Prime Minister of the Islamic Republic of Pakistan.	Non-acceptance would cause embarrassment to donor and U.S. Government.
White House Staff Member. Hadley, Stephen.	8″ gold vermeil ram on a green marble stand. Rec'd—1/14/2008. Est. Value—$650.00. Location—Transferred to General Services Administrations.	His Highness Sheikh Khalifa bin Zayed Al Nahyan, President of the United Arab Emirates.	Non-acceptance would cause embarrassment to donor and U.S. Government.
White House Staff Member. Hadley, Stephen.	Framed 25″ × 31″ painting of a building and a palm tree by the beach. Rec'd—8/8/2008. Est. Value—$650.00. Location—Transferred to General Services Administrations.	His Highness Sheikh Mohammed bin Rashid al-Maktoum, Vice President and Prime Minister of the United Arab Emirates.	Non-acceptance would cause embarrassment to donor and U.S. Government.

AGENCY: EXECUTIVE OFFICE OF THE PRESIDENT—Continued

[Report of Tangible Gifts]

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White House Staff Member. Hadley, Stephen.	14″ gold vermeil statue of a camel and two trees on a green marble base. Rec'd—3/26/2008. Est. Value—$1,500.00. Location—Transferred to General Services Administrations.	His Majesty Shaikh Hamad Bin Isa Bin Salman Al-Khalifa, King of the Kingdom of Bahrain.	Non-acceptance would cause embarrassment to donor and U.S. Government.
White House Staff Member. Hagin, Joe.	Jewelry set including a men's and women's watch, diamond bracelet, earrings, cufflinks, and ring, and a Tiffany and Co. Atlas pen. Rec'd—1/14/2008. Est. Value—$10,290.00. Location—Transferred to General Services Administrations.	Abdullah bin Abd al-Aziz Al Saud, Custodian of the Two Holy Mosques, King of the Kingdom of Saudi Arabia.	Non-acceptance would cause embarrassment to donor and U.S. Government.
White House Staff Member. Hagin, Joe.	Large grey robe with gold accents lined with wool. Rec'd—1/15/2008. Est. Value—$550.00. Location—Transferred to General Services Administrations.	Abdullah bin Abd al-Aziz Al Saud, Custodian of the Two Holy Mosques, King of the Kingdom of Saudi Arabia.	Non-acceptance would cause embarrassment to donor and U.S. Government.
White House Staff Member. Hagin, Joe.	Silver business card holder, a book titled ''Romania: Tourist Guide'' by Maria Pascaru, a black leather attaché case, and a set of eight fabric art prints featuring black and white scenes of Bucharest. Rec'd—4/2/2008. Est. Value—$389.00. Location—Transferred to General Services Administrations.	His Excellency Traian Basescu, President of Romania.	Non-acceptance would cause embarrassment to donor and U.S. Government.
White House Staff Member. Hagin, Joe.	6'' gold vermeil horse on a green marble stand; held in a green leather case. Rec'd—1/14/2008. Est. Value—$500.00. Location—Transferred to General Services Administrations.	His Highness Sheikh Khalifa bin Zayed Al Nahyan, President of the United Arab Emirates.	Non-acceptance would cause embarrassment to donor and U.S. Government.
White House Staff Member. Jeffrey, James.	6½″ × 8″ porcelain Hermès tray with multicolored rococo patterns and blue and gold lining. Rec'd—7/14/2008. Est. Value—$600.00. Location—Transferred to General Services Administrations.	His Excellency Edward Nalbandian, Minister of Foreign Affairs of the Republic of Armenia.	Non-acceptance would cause embarrassment to donor and U.S. Government.
White House Staff Member. LTG Lute, Douglas.	69″ × 51″ Afghani rug with diamond pattern and burnt orange, beige, and maroon accents. Rec'd—2/17/2008. Est. Value—$1,000.00. Location—Transferred to General Services Administrations.	His Excellency Abdul Rahim Wardak, Minister of Defense of the Islamic Republic of Afghanistan.	Non-acceptance would cause embarrassment to donor and U.S. Government.
White House Staff Member. LTG Lute, Douglas.	48″ × 70″ Afghani rug with diamond pattern and burnt orange, beige, and maroon accents. Rec'd—5/9/2008. Est. Value—$480.00. Location—Transferred to General Services Administrations.	His Excellency Abdul Rahim Wardak, Minister of Defense of the Islamic Republic of Afghanistan.	Non-acceptance would cause embarrassment to donor and U.S. Government.
White House Staff Member. McGurn, William J.	Eloga Wintime men's watch with 2 dials, diamonds, and steel strap. Rec'd—1/14/2008. Est. Value—$1,450.00. Location—Transferred to General Services Administrations.	Abdullah bin Abd al-Aziz Al Saud, Custodian of the Two Holy Mosques, King of the Kingdom of Saudi Arabia.	Non-acceptance would cause embarrassment to donor and U.S. Government.

AGENCY: EXECUTIVE OFFICE OF THE PRESIDENT—Continued

[Report of Tangible Gifts]

Name and title of person accepting the gift on behalf of the U.S. Government	Gift, date of acceptance on behalf of the U.S. Government, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
White House Staff Member. McGurn, William J.	Jewelry set with women's watch, diamond cufflinks, earrings, bracelet, and ring, and a Tiffany and Co. Atlas pen. Rec'd—1/14/2008. Est. Value—$11,575.00. Location—Transferred to General Services Administrations.	Abdullah bin Abd al-Aziz Al Saud, Custodian of the Two Holy Mosques, King of the Kingdom of Saudi Arabia.	Non-acceptance would cause embarrassment to donor and U.S. Government.
White House Staff Member. McGurn, William J.	Dark blue robe with black accents lined with wool. Rec'd—1/15/2008. Est. Value—$550.00. Location—Transferred to General Services Administrations.	Abdullah bin Abd al-Aziz Al Saud, Custodian of the Two Holy Mosques, King of the Kingdom of Saudi Arabia.	Non-acceptance would cause embarrassment to donor and U.S. Government.
White House Staff Member. McGurn, William J.	9″ gold vermeil statue of an Arab man with a bird on a green plastic stand. Rec'd—1/14/2008. Est. Value—$400.00. Location—Transferred to General Services Administrations.	His Highness Sheikh Khalifa bin Zayed Al Nahyan, President of the United Arab Emirates.	Non-acceptance would cause embarrassment to donor and U.S. Government.
White House Staff Member. McGurn, William J.	7″ gold vermeil horse on a lapis stand. Rec'd—1/14/2008. Est. Value—$500.00. Location—Transferred to General Services Administrations.	His Highness Sheikh Khalifa bin Zayed Al Nahyan, President of the United Arab Emirates.	Non-acceptance would cause embarrassment to donor and U.S. Government.
White House Staff Member. Perino, Dana.	Jewelry set including men's and women's diamond watches, diamond bracelet, earrings, cufflinks, and ring, and a Tiffany and Co. Atlas pen. Rec'd—1/14/2008. Est. Value—$14,625.00. Location—Transferred to General Services Administrations.	Abdullah bin Abd al-Aziz Al Saud, Custodian of the Two Holy Mosques, King of the Kingdom of Saudi Arabia.	Non-acceptance would cause embarrassment to donor and U.S. Government.
White House Staff Member. Perino, Dana.	Wool-lined brown robe with pink accents and a green shawl with various designs. Rec'd—1/15/2008. Est. Value—$670.00. Location—Transferred to General Services Administrations.	Abdullah bin Abd al-Aziz Al Saud, Custodian of the Two Holy Mosques, King of the Kingdom of Saudi Arabia.	Non-acceptance would cause embarrassment to donor and U.S. Government.
White House Staff Member. Perino, Dana.	7″ gold painted sterling silver statue of a castle on a maroon jasper stand; held in a black leather case. Rec'd—1/14/2008. Est. Value—$500.00. Location—Transferred to General Services Administrations.	His Highness Sheikh Khalifa bin Zayed Al Nahyan, President of the United Arab Emirates.	Non-acceptance would cause embarrassment to donor and U.S. Government.
White House Staff Member. Price, Daniel.	Pair of black platinum plated Delta pens with ink and leather case. Rec'd—6/12/2008. Est. Value—$480.00 Location—Transferred to General Services Administrations.	His Excellency Silvio Berlusconi, President of the Council of Ministers of the Italian Republic.	Non-acceptance would cause embarrassment to donor and U.S. Government.
White House Staff Member. Ramchard, Nikhil N..	4½″ silver bowl with Saudi Arabia coat of arms. Rec'd—1/30/2008. Est. Value—$449.00 Location—Transferred to General Services Administrations.	His Excellency Adel Al-Jubeir, Ambassador of the Kingdom of Saudi Arabia.	Non-acceptance would cause embarrassment to donor and U.S. Government.
White House Staff Member. Rasmussen, Nicholas.	Pasha de Cartier ballpoint pen with platinum finish. Rec'd—6/10/2008. Est. Value—$680.00. Location—Transferred to General Services Administrations.	The Honorable Ali bin Fetais al-Marri, Attorney General of the State of Qatar.	Non-acceptance would cause embarrassment to donor and U.S. Government.

AGENCY: EXECUTIVE OFFICE OF THE PRESIDENT—Continued

[Report of Tangible Gifts]

Name and title of person accepting the gift on behalf of the U.S. Government	Gift, date of acceptance on behalf of the U.S. Government, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
White House Staff Member. Singh, Michael.	Framed 9″ × 12″ multicolored abstract painting of various geometric shapes. Rec'd—8/8/2008. Est. Value—$800.00. Location—Transferred to General Services Administrations.	His Highness Sheikh Mohammed bin Rashid al-Maktoum, Vice President and Prime Minister of the United Arab Emirates.	Non-acceptance would cause embarrassment to donor and U.S. Government.
White House Staff Member. Wainstein, Ken.	A book titled ''The Construction of Al Hashemi II: A Voyage Through the History of Wooden Ships, A Concise History of Kuwait, The Art of Making Traditional Vessels,'' compiled by Abdul Husain Mohammed Rafie Marafie and a small glass block with Kuwait City etched in the center. Rec'd—8/8/2008. Est. Value—$590.00. Location—Transferred to General Services Administration.	His Excellency Sheikh Nasser Mohammad Al Sabah, Prime Minister of the State of Kuwait.	Non-acceptance would cause embarrassment to donor and U.S. Government.
White House Staff Member. Wainstein, Ken.	38″ silver sword; held in a scabbard and sword case. Rec'd—11/10/2008. Est. Value—$850.00. Location—Transferred to General Services Administrations.	The Honorable Ali bin Fetais al-Marri, Attorney General of the State of Qatar.	Non-acceptance would cause embarrassment to donor and U.S. Government.
White House Staff Member. Warwood, Jordan.	Silver Longines Grande Vitesse men's watch with three dials. Rec'd—8/13/2008. Est. Value—$2,350.00. Location—Transferred to General Services Administrations.	His Excellency Ali Fahad Falih al-Shahwany Al-Hajri, Ambassador of the State of Qatar.	Non-acceptance would cause embarrassment to donor and U.S. Government.
White House Staff Member. Yanes, Raul.	Jewelry set including Philip Stein Teslar men's and women's watches, diamond cufflinks, ring, bracelet, and earrings, and a Tiffany and Co. Atlas pen. Rec'd—1/14/2008. Est. Value—$12,215.00. Location—Transferred to General Services Administrations.	Abdullah bin Abd al-Aziz Al Saud, Custodian of the Two Holy Mosques, King of the Kingdom of Saudi Arabia.	Non-acceptance would cause embarrassment to donor and U.S. Government.
White House Staff Member. Yanes, Raul.	Large grey robe lined with wool, and a beige shawl. Rec'd—1/15/2008. Est. Value—$600.00. Location—Transferred to General Services Administrations.	Abdullah bin Abd al-Aziz Al Saud, Custodian of the Two Holy Mosques, King of the Kingdom of Saudi Arabia.	Non-acceptance would cause embarrassment to donor and U.S. Government.
White House Staff Member. Yanes, Raul.	7″ gold vermeil statue of a tree and horse on a marble stand. Rec'd—1/14/2008 Est. Value—$500.00. Location—Transferred to General Services Administrations.	His Highness Sheikh Khalifa bin Zayed Al Nahyan, President of the United Arab Emirates.	Non-acceptance would cause embarrassment to donor and U.S. Government.

AGENCY: THE WHITE HOUSE, OFFICE OF THE VICE PRESIDENT

[Report of Tangible Gifts]

Name and title of person accepting the gift on behalf of the U.S. Government	Gift, date of acceptance on behalf of the U.S. Government, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
Vice President Dick Cheney	Ten jars of Oscietra Caspian caviar ($2190); Tovuz cognac ($58); box of pomegranates ($210); ten bottles of pomegrante juice ($260); Rec'd—9/3/2008. Est. Value—$2,718.00. Location—Disposition: Handled pursuant to U.S. Secret Service policy.	His Excellency Ilham Aliyev, President of the Republic of Azerbaijan.	Non-acceptance would cause embarrassment to donor and U.S. Government.
Vice President Dick Cheney	Photo album. Rec'd—9/3/2008. Est. Value—$295.00. Location—Archives.	His Excellency Ilham Aliyev, President of the Republic of Azerbaijan.	Non-acceptance would cause embarrassment to donor and U.S. Government.
Vice President Dick Cheney	Handmade silk Azerbaijan carpet. Rec'd—9/3/2008. Est. Value—$6,800. Location—Archives.	His Excellency Ilham Aliyev, President of the Republic of Azerbaijan.	Non-acceptance would cause embarrassment to donor and U.S. Government.
Mrs. Lynne Cheney	Six tea cups in gold and silver holders ($225); engraved silver bracelet ($95); engraved silver belt ($300); Rec'd—9/3/2008. Est. Value—$620. Location—Archives.	His Excellency Ilham Aliyev, President of the Republic of Azerbaijan.	Non-acceptance would cause embarrassment to donor and U.S. Government.
Mrs. Lynne Cheney	Preserved fruits and jellies. Rec'd—9/3/2008. Est. Value—$120. Location—Disposition: Handled pursuant to U.S. Secret Service policy.	His Excellency Ilham Aliyev, President of the Republic of Azerbaijan.	Non-acceptance would cause embarrassment to donor and U.S. Government.
Vice President Dick Cheney and Mrs. Lynne Cheney.	White linen embroidered men's shirt ($115); wool wall hanging ($140); white linen embroidered woman's blouse and red beaded necklace ($85); pair of Ukrainian ceramic dolls ($146); two silver brooches in wooden boxes ($150). Rec'd—9/4/2008. Est. Value—$636. Location—Archives.	His Excellency Viktor Andriyovych Yushchenko, President of Ukraine.	Non-acceptance would cause embarrassment to donor and U.S. Government.
Vice President Dick Cheney and Mrs. Lynne Cheney.	Two bottles 1940 Massandra Golden Collection Wine. Rec'd—9/4/2008. Est. Value—$256. Location—Disposition: Handled pursuant to U.S. Secret Service policy.	His Excellency Viktor Andriyovych Yushchenko, President of Ukraine.	Non-acceptance would cause embarrassment to donor and U.S. Government.
Mrs. Lynne Cheney	Framed photograph ($55); three coffee table books about Ukraine ($195). Rec'd—9/4/2008. Est. Value—$250. Location—Archives.	His Excellency Viktor Andriyovych Yushchenko, President of Ukraine.	Non-acceptance would cause embarrassment to donor and U.S. Government.
Mrs. Lynne Cheney	Three Ukrainian cookbooks. Rec'd—9/4/2008. Est. Value—$90. Location—Retained.	His Excellency Viktor Andriyovych Yushchenko, President of Ukraine.	Non-acceptance would cause embarrassment to donor and U.S. Government.
Vice President's daughters and grandchildren.	Seven copies of a Ukrainian children's book ($105); six plush stuffed animals ($90); three girls' blouses ($147); three boys' shirts ($117); wooden toy cart with horses ($111). Rec'd—9/4/2008. Est. Value—$570. Location—Retained.	His Excellency Viktor Andriyovych Yushchenko, President of Ukraine.	Non-acceptance would cause embarrassment to donor and U.S. Government.
Vice President Dick Cheney	Five E. Marinella neckties. Rec'd—11/17/2008. Est. Value—$675. Location—Archives.	His Excellency Silvio Berlusconi, President of the Council of Ministers of the Italian Republic.	Non-acceptance would cause embarrassment to donor and U.S. Government.
Vice President Dick Cheney	Gold, malachite and mother-of-pearl model of the A.-Massmak Fort, with gold vermeil plaque. Rec'd—3/22/2008. Est. Value—$8,000. Location—Archives.	Abdullah bin Abd al-Aziz Al Saud, Custodian of the Two Holy Mosques, King of the Kingdom of Saudi Arabia.	Non-acceptance would cause embarrassment to donor and U.S. Government.

AGENCY: THE WHITE HOUSE, OFFICE OF THE VICE PRESIDENT—Continued

[Report of Tangible Gifts]

Name and title of person accepting the gift on behalf of the U.S. Government	Gift, date of acceptance on behalf of the U.S. Government, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
Vice President Dick Cheney	The King Abd-al-Aziz Sash (a large gold vermeil medal on a green ribbon sash, with two cloth lapel pins. Rec'd—3/22/2008. Est. Value—$450. Location—Archives.	Abdullah bin Abd al-Aziz Al Saud, Custodian of the Two Holy Mosques, King of the Kingdom of Saudi Arabia.	Non-acceptance would cause embarrassment to donor and U.S. Government.
Mrs. Lynne Cheney	Two Samsung D880 Duo cell phones. Rec'd—3/22/2008. Est. Value—$1,400. Location—Archives.	Abdullah bin Abd al-Aziz Al Saud, Custodian of the Two Holy Mosques, King of the Kingdom of Saudi Arabia.	Non-acceptance would cause embarrassment to donor and U.S. Government.
Mrs. Lynne Cheney	12 kg Saudi Arabian dates ($264); large box of milk chocolates ($250); four bottles of perfumed oils ($96). Rec'd—3/22/2008. Est. Value—$610. Location—Disposition: Handled pursuant to U.S. Secret Service policy.	Abdullah bin Abd al-Aziz Al Saud, Custodian of the Two Holy Mosques, King of the Kingdom of Saudi Arabia.	Non-acceptance would cause embarrassment to donor and U.S. Government.
Mrs. Lynne Cheney	Diamond and emerald jewelry set. Rec'd—3/22/2008. Est. Value—$65,000. Location—Archives.	Abdullah bin Abd al-Aziz Al Saud, Custodian of the Two Holy Mosques, King of the Kingdom of Saudi Arabia.	Non-acceptance would cause embarrassment to donor and U.S. Government.
Mrs. Lynne Cheney	Two pairs of Dr. Scholl's high heeled clogs. Rec'd—3/22/2008. Est. Value—$300. Location—Archives.	Abdullah bin Abd al-Aziz Al Saud, Custodian of the Two Holy Mosques, King of the Kingdom of Saudi Arabia.	Non-acceptance would cause embarrassment to donor and U.S. Government.
Ms. Elizabeth Cheney, Vice President's daughter.	Diamond and ruby jewelry set. Rec'd—3/22/2008. Est. Value—$85,000. Location—Archives.	Abdullah bin Abd al-Aziz Al Saud, Custodian of the Two Holy Mosques, King of the Kingdom of Saudi Arabia.	Non-acceptance would cause embarrassment to donor and U.S. Government.
Ms. Elizabeth Cheney, Vice President's daughter.	Three pairs of Dr. Scholl's high heeled clogs. Rec'd—3/22/2008. Est. Value—$450. Location—Archives.	Abdullah bin Abd al-Aziz Al Saud, Custodian of the Two Holy Mosques, King of the Kingdom of Saudi Arabia.	Non-acceptance would cause embarrassment to donor and U.S. Government.
David Addington, Chief of Staff to the Vice President.	White gold and diamond jewelry set. Rec'd—3/22/2008. Est. Value—$16,700. Location—Archives.	Abdullah bin Abd al-Aziz Al Saud, Custodian of the Two Holy Mosques, King of the Kingdom of Saudi Arabia.	Non-acceptance would cause embarrassment to donor and U.S. Government.
John Hannah, Assistant to the Vice President for National Security Affairs.	White gold, emerald and diamond jewelry set. Rec'd—3/22/2008. Est. Value—$14,610. Location—Archives.	Abdullah bin Abd al-Aziz Al Saud, Custodian of the Two Holy Mosques, King of the Kingdom of Saudi Arabia.	Non-acceptance would cause embarrassment to donor and U.S. Government.
Samantha Ravich, Deputy Assistant to the Vice President for National Security Affairs.	Gold jewelry set, with diamonds, quartz and kunzite stones. Rec'd—3/22/2008. Est. Value—$9,425. Location—Archives.	Abdullah bin Abd al-Aziz Al Saud, Custodian of the Two Holy Mosques, King of the Kingdom of Saudi Arabia.	Non-acceptance would cause embarrassment to donor and U.S. Government.
Robert Karem, Special Assistant to the Vice President for National Security Affairs.	White gold, smoky quartz and diamond jewelry set. Rec'd—3/22/2008. Est. Value—$10,250. Location—Archives.	Abdullah bin Abd al-Aziz Al Saud, Custodian of the Two Holy Mosques, King of the Kingdom of Saudi Arabia.	Non-acceptance would cause embarrassment to donor and U.S. Government.
Lea Anne Foster, Asst. to the Vice President for Communications.	Gold vermeil and diamond jewelry set. Rec'd—3/22/2008. Est. Value—$15,350. Location—Archives.	Abdullah bin Abd al-Aziz Al Saud, Custodian of the Two Holy Mosques, King of the Kingdom of Saudi Arabia.	Non-acceptance would cause embarrassment to donor and U.S. Government.
Vice President Dick Cheney	Ornate plate from the Osmanli Collection. Rec'd—6/12/2008. Est. Value—$1,190. Location—Archives.	His Excellency Alli Babacan, Minister of Foreign Affairs of the Republic of Turkey.	Non-acceptance would cause embarrassment to donor and U.S. Government.
Mrs. Lynne Cheney	Traditional Kurdish women's clothing—vest, pants and overdress—with 21 Karat gold necklace. Rec'd—4/3/2008. Est. Value—$5,175. Location—Archives.	His Excellency Masoud Barzani, President of the Kurdistan Regional Government.	Non-acceptance would cause embarrassment to donor and U.S. Government.

AGENCY: THE WHITE HOUSE, OFFICE OF THE VICE PRESIDENT—Continued

[Report of Tangible Gifts]

Name and title of person accepting the gift on behalf of the U.S. Government	Gift, date of acceptance on behalf of the U.S. Government, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
Ms. Elizabeth Cheney, Vice President's daughter.	Traditional Kurdish women's clothing—vest, pants and overdress—with 21 Karat gold necklace. Rec'd—4/3/2008. Est. Value—$5,175. Location—Archives.	His Excellency Masoud Barzani, President of the Kurdistan Regional Government.	Non-acceptance would cause embarrassment to donor and U.S. Government.
Vice President Dick Cheney	Large cowskin nesting bowl. Rec'd—1/14/2008. Est. Value—$165. Location—Archives.	His Excellency Saqr Ghobash, Embassy of the United Arab Emirates.	Non-acceptance would cause embarrassment to donor and U.S. Government.
Vice President Dick Cheney	Gift basket of fruits, nuts, tea and chocolate. Rec'd—1/14/2008. Est. Value—$275. Location—Disposition: Handled pursuant to U.S. Secret Service policy.	His Excellency Saqr Ghobash, Embassy of the United Arab Emirates.	Non-acceptance would cause embarrassment to donor and U.S. Government.
Vice President Dick Cheney	Twelve E. Marinella neckties. Rec'd—10/15/2008. Est. Value—$1,620. Location—Archives.	His Excellency Silvio Berlusconi, President of the Council of Ministers of the Italian Republic.	Non-acceptance would cause embarrassment to donor and U.S. Government.
Mrs. Lynne Cheney	Two E. Marinella neckscarves. Rec'd—10/15/2008. Est. Value—$500. Location—Archives.	His Excellency Silvio Berlusconi, President of the Council of Ministers of the Italian Republic.	Non-acceptance would cause embarrassment to donor and U.S. Government.
Vice President Dick Cheney	Book with sculpted leather cover, entitled Subbi, Paintings of Olev Subbi. Rec'd—4/24/2008. Est. Value—$2,000. Location—Archives.	His Excellency Toomas Hendrik Ilves, President of the Republic of Estonia.	Non-acceptance would cause embarrassment to donor and U.S. Government.
Vice President Dick Cheney	Brass candelabra covered with lapis lazuli. Rec'd—5/6/2008. Est. Value—$500. Location—Archives.	His Excellency Hamid Karzai, President of the Islamic Republic of Afghanistan.	Non-acceptance would cause embarrassment to donor and U.S. Government.
Vice President Dick Cheney	Wool carpet of Ghazni Turkmen weave. Rec'd—5/6/2008. Est. Value—$1,200. Location—Archives.	His Excellency Hamid Karzai, President of the Islamic Republic of Afghanistan.	Non-acceptance would cause embarrassment to donor and U.S. Government.
Vice President Dick Cheney	Wool carpet of Afghanistan origin. Rec'd—4/24/2008. Est. Value—$580. Location—Archives.	His Excellency Abdul Khalili, Vice President of the Islamic Republic of Afghanistan.	Non-acceptance would cause embarrassment to donor and U.S. Government.
Vice President Dick Cheney	Book of Books, in Hebrew, with leather cover, gilded pages, in a slipcase; First Strike by Shlomo Nakdiman. Rec'd—4/4/2008. Est. Value—$477. Location—Archives.	His Excellency Ehud Olmert, Prime Minister of Israel.	Non-acceptance would cause embarrassment to donor and U.S. Government.
Vice President Dick Cheney	Sterling silver tea set. Rec'd—4/3/2008. Est. Value—$1,000. Location—Archives.	His Majesty Sultan Qaboos Bin Said, Sultan of Oman.	Non-acceptance would cause embarrassment to donor and U.S. Government.
Vice President Dick Cheney	Three catalogues from the Museum of Time Pieces at Qasr Al Alam; DVD of Royal Equestrian and Camel Festival. Rec'd—4/3/2008. Est. Value—$210. Location—Retained.	His Majesty Sultan Qaboos Bin Said, Sultan of Oman.	Non-acceptance would cause embarrassment to donor and U.S. Government.
Vice President Dick Cheney	Sterling silver sculpture of a palm tree. Rec'd—3/26/2008. Est. Value—$1,000. Location—Archives.	His Excellency Jalal Talabani, President of Iraq.	Non-acceptance would cause embarrassment to donor and U.S. Government.
Vice President Dick Cheney	Wooden inlaid candy box. Rec'd—3/26/2008. Est. Value—$50. Location—Archives.	His Excellency Jalal Talabani, President of Iraq.	Non-acceptance would cause embarrassment to donor and U.S. Government.
Vice President Dick Cheney	Silk and wool Egyptian carpet in the Isfahan pattern. Rec'd—4/3/2008. Est. Value—$1,050. Location—Archives.	Field Marshal Hussein Tantawi, Commander-in-Chief of the Egyptian Armed Forces.	Non-acceptance would cause embarrassment to donor and U.S. Government.

AGENCY: THE WHITE HOUSE, OFFICE OF THE VICE PRESIDENT—Continued

[Report of Tangible Gifts]

Name and title of person accepting the gift on behalf of the U.S. Government	Gift, date of acceptance on behalf of the U.S. Government, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
Mrs. Lynne Cheney	Gold scarab bracelet with three blue stones. Rec'd—4/3/2008. Est. Value—$750. Location—Archives.	Field Marshal Hussein Tantawi, Commander-in-Chief of the Egyptian Armed Forces.	Non-acceptance would cause embarrassment to donor and U.S. Government.
Vice President Dick Cheney	Framed print of the Gavrilo Pricip Bridge in Sarajevo. Rec'd—1/7/2008. Est. Value—$450. Location—Archives.	His Excellency Dr. Bisera Turkovic, Ambassador of Bosnia & Herzegovina.	Non-acceptance would cause embarrassment to donor and U.S. Government.
David Addington, Chief of Staff to the Vice President.	Small framed painting of a Bosnian street scene. Rec'd—1/7/2008. Est. Value—$350. Location—General Services Administration.	His Excellency Dr. Bisera Turkovic, Ambassador of Bosnia & Herzegovina.	Non-acceptance would cause embarrassment to donor and U.S. Government.
Vice President Dick Cheney	Framed antique map of the Lithuanian region. Rec'd—9/26/2008. Est. Value—$420. Location—Archives.	His Excellency Yuriy Yekhanurov, Defense Minister of Ukraine.	Non-acceptance would cause embarrassment to donor and U.S. Government.
John Hannah, Assistant to the Vice President for National Security Affairs.	Zilli necktie ($398); Perry Ellis Parfum ($109); Alpina Chocolates ($108). Rec'd—2/5/2008. Est. Value—$605. Location—General Services Administration.	Qassim Abbas Daoud, Council of Representatives United Iraqi Alliance.	Non-acceptance would cause embarrassment to donor and U.S. Government.
John Hannah, Assistant to the Vice President for National Security Affairs.	Wool carpet of Afghanistan origin. Rec'd—5/6/2008. Est. Value—$790. Location—General Services Administration.	His Excellency Hamid Karzai, President of the Islamic Republic of Afghanistan.	Non-acceptance would cause embarrassment to donor and U.S. Government.
David Addington, Chief of Staff to the Vice President.	Wool carpet of Afghanistan origin. Rec'd—5/6/2008. Est. Value—$800. Location—General Services Administration.	His Excellency Hamid Karzai, President of the Islamic Republic of Afghanistan.	Non-acceptance would cause embarrassment to donor and U.S. Government.
Samantha Ravich, Deputy Asst. to the Vice President for National Security Affairs.	Wool carpet of Afghanistan origin. Rec'd—5/6/2008. Est. Value—$800. Location—General Services Administration.	His Excellency Hamid Karzai, President of the Islamic Republic of Afghanistan.	Non-acceptance would cause embarrassment to donor and U.S. Government.
John Hannah, Assistant to the Vice President for National Security Affairs.	Zilli necktie ($398); Valentino necktie ($98). Rec'd—6/11/2008. Est. Value—$496. Location—General Services Administration.	Sadiq al Rikabi, Iraqi General Director for External Relations.	Non-acceptance would cause embarrassment to donor and U.S. Government

AGENCY: DEPARTMENT OF STATE

[Report of Tangible Gifts]

Name and title of person accepting the gift on behalf of the U.S. Government	Gift, date of acceptance on behalf of the U.S. Government, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
The Honorable Condoleezza Rice, Secretary of State of the United States.	Ceremonial (traditional) robe in velvet and wood chest with gold decoration. Rec'd—January 13, 2008. Est. Value—$850.00. Location—Pending Transfer to General Services Administration.	His Royal Highness Abdullah bin Abd al-Aziz Al Saud, Custodian of the Two Holy Mosques and King of the Kingdom of Saudi Arabia.	Non-acceptance would cause embarrassment to donor and U.S. Government.
The Honorable Condoleezza Rice, Secretary of State of the United States.	Pearl choker. Rec'd—November 9, 2008. Est. Value—$1,400.00. Location—Pending Transfer to General Services Administration.	Ms. Benita Ferrero-Waldner, Member of the European Commission External Relations and Neighborhood Policy.	Non-acceptance would cause embarrassment to donor and U.S. Government.
The Honorable Condoleezza Rice, Secretary of State of the United States.	Painting of Khobe Indian woman from Chiriqui, Panama. Rec'd—December 9, 2008. Est. Value—$440.00. Location—Pending Transfer to General Services Administration.	His Excellency Samuel Lewis Navarro, First Vice-President and Foreign Minister of the Republic of Panama.	Non-acceptance would cause embarrassment to donor and U.S. Government.

AGENCY: DEPARTMENT OF STATE—Continued

[Report of Tangible Gifts]

Name and title of person accepting the gift on behalf of the U.S. Government	Gift, date of acceptance on behalf of the U.S. Government, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
The Honorable Condoleezza Rice, Secretary of State of the United States.	1. 2 framed political cartoons (and binder explaining significance of items) 2. jersey with Secretary Rice's name on back 3. 4 classical music CDs. Rec'd—December 8, 2008. Est. Value—$388.00. Location—Pending Transfer to General Services Administration.	The Right Honorable David Miliband, Secretary of State for Foreign and Commonwealth Affairs of the United Kingdom.	Non-acceptance would cause embarrassment to donor and U.S. Government.
The Honorable Condoleezza Rice, Secretary of State of the United States.	Framed picture made of silk fabric strings in design of flowers. Rec'd—December 12, 2008. Est. Value—$440.00. Location—Pending Transfer to General Services Administration.	His Excellency Dai Bingguo, State Councilor of the People's Republic of China.	Non-acceptance would cause embarrassment to donor and U.S. Government.
The Honorable Condoleezza Rice, Secretary of State of the United States.	1. Book—Prince Mohamed Bolkiah, Time and the River, a Memoir—signed with dedication 2. Gold coin with picture of Sultan Haji Hassanal Bolkiah. Rec'd—December 14, 2008. Est. Value—$895.00. Location—Pending Transfer to General Services Administration.	His Excellency Bandar Seri Begawan, Minister of Foreign Affairs and Trade of Brunei Darussalam.	Non-acceptance would cause embarrassment to donor and U.S. Government.
The Honorable Condoleezza Rice, Secretary of State of the United States.	Lalique crystal perfume bottle. Rec'd—June 12, 2008. Est. Value—$878.00. Location—Pending Transfer to General Services Administration.	His Excellency Bernard Kouchner, Minister of Foreign Affairs of the French Republic.	Non-acceptance would cause embarrassment to donor and U.S. Government.
The Honorable Condoleezza Rice, Secretary of State of the United States.	Ornate glass (crystal) perfume decanter with frosted floral detail from the ''Crystal de Sevres'' company in France. Rec'd—January 31, 2008. Est. Value—$385.00. Location—Pending Transfer to General Services Administration.	His Excellency Hervé Morin, Minister of Defense of the French Republic.	Non-acceptance would cause embarrassment to donor and U.S. Government.
The Honorable Condoleezza Rice, Secretary of State of the United States.	Necklace—single pearl on black cord. Rec'd—February 27, 2008. Est. Value—$520.00. Location—Pending Transfer to General Services Administration.	His Excellency Takeo Kawamura, Chief Cabinet Secretary of Japan.	Non-acceptance would cause embarrassment to donor and U.S. Government.
The Honorable Condoleezza Rice, Secretary of State of the United States.	1. Diamond ring in wood box 2. DVD with musical instrument 3. Locket with Qadhafi's photo. Rec'd—September 5, 2008. Est. Value—$212,225.00. Location—Pending Transfer to General Services Administration.	Colonel Muammar Abu Minyar al-Qadhafi, Leader of the Revolution of the Great Socialist People's Libyan Arab Jamahiriya.	Non-acceptance would cause embarrassment to donor and U.S. Government.
The Honorable Condoleezza Rice, Secretary of State of the United States.	Decorative silver plated and coral boat in leather display case. Rec'd—September 6, 2008. Est. Value—$360.00. Location—Pending Transfer to General Services Administration.	His Excellency Abdelaziz Bouteflika, President of the People's Democratic Republic of Algeria.	Non-acceptance would cause embarrassment to donor and U.S. Government.
The Honorable Condoleezza Rice, Secretary of State of the United States.	Heavy metal (bronze) statue of a woman. Rec'd—July 15, 2008. Est. Value—$585.00. Location—Pending Transfer to General Services Administration.	His Excellency Blaise Compaoré, President of Burkina Faso.	Non-acceptance would cause embarrassment to donor and U.S. Government.
The Honorable Condoleezza Rice, Secretary of State of the United States.	Sabre with brass hilt and leather handgrip; sheath has a dedication plaque to Secretary Rice. Rec'd—August 20, 2008. Est. Value—$400.00. Location—Pending Transfer to General Services Administration.	His Excellency Lech Kaczynski, President of the Republic of Poland on behalf of the People of Poland.	Non-acceptance would cause embarrassment to donor and U.S. Government.

AGENCY: DEPARTMENT OF STATE—Continued

[Report of Tangible Gifts]

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The Honorable Condoleezza Rice, Secretary of State of the United States.	Watercolor of Secretary Rice. Rec'd—June 29, 2008. Est. Value—$1,200.00. Location—Pending Transfer to General Services Administration.	His Excellency Yang Jiechi, Minister of Foreign Affairs of the People's Republic of China.	Non-acceptance would cause embarrassment to donor and U.S. Government.
The Honorable Condoleezza Rice, Secretary of State of the United States.	Painting of old house by Pavel Mitkov. Rec'd—July 9, 2008. Est. Value—$900.00. Location—Pending Transfer to General Services Administration.	His Excellency Sergei Stanishev, Prime Minister of the Republic of Bulgaria.	Non-acceptance would cause embarrassment to donor and U.S. Government.
The Honorable Condoleezza Rice, Secretary of State of the United States.	China tea set—teapot, mugs and saucers. Rec'd—July 8, 2008. Est. Value—$680.00. Location—Pending Transfer to General Services Administration.	His Excellency Karel Schwarzenberg, Minister of Foreign Affairs of the Czech Republic.	Non-acceptance would cause embarrassment to donor and U.S. Government.
The Honorable Condoleezza Rice, Secretary of State of the United States.	Framed figure of Princess Olha and medals. Rec'd—April 1, 2008. Est. Value—$520.00. Location—Pending Transfer to General Services Administration.	His Excellency Volodymyr Ohryzko, Minister of Foreign Affairs of Ukraine.	Non-acceptance would cause embarrassment to donor and U.S. Government.
The Honorable Condoleezza Rice, Secretary of State of the United States.	18k yellow gold Liberian " V" Bracelet. Rec'd—February 19, 2008. Est. Value—$420.00. Location—Pending Transfer to General Services Administration.	Her Excellency Olubanke King-Akerele, Minister of Foreign Affairs of the Republic of Liberia.	Non-acceptance would cause embarrassment to donor and U.S. Government.
The Honorable Condoleezza Rice, Secretary of State of the United States.	18k yellow gold filigree bracelet with scarab design. Rec'd—March 25, 2008. Est. Value—$950.00. Location—Pending Transfer to General Services Administration.	Field Marshall Mohamed Hussein Tantawi, Commander in Chief of the Egyptian Armed Forces of the Arab Republic of Egypt.	Non-acceptance would cause embarrassment to donor and U.S. Government.
The Honorable Condoleezza Rice, Secretary of State of the United States.	18k yellow gold neckace, bracelet, and earrings with Andrinka symbols of Ghana. Rec'd—February 20, 2008. Est. Value—$2,250.00. Location—Pending Transfer to General Services Administration.	His Excellency John Agyekum Kufuor, President of the Republic of Ghana.	Non-acceptance would cause embarrassment to donor and U.S. Government.
The Honorable Condoleezza Rice, Secretary of State of the United States.	1. Gold, diamond and saphire set with necklace, ring, bracelet and earrings 2. Ceremonial robe and scarf (red and blue). Rec'd—January 14, 2008. Est. Value—$230,145.00. Location—Pending Transfer to General Services Administration.	His Royal Highness Abdullah bin Abd al-Aziz Al Saud, Custodian of the Two Holy Mosques and King of the Kingdom of Saudi Arabia.	Non-acceptance would cause embarrassment to donor and U.S. Government.
The Honorable Condoleezza Rice, Secretary of State of the United States.	1. Book: " Museum of Historical Treasures of Ukraine" 2. " Scythian Gold" framed pictorials in gold of ancient history of Ukraine. Rec'd—September 22, 2008. Est. Value—$415.00. Location—Pending Transfer to General Services Administration.	His Excellency Volodymyr Ohryzko, Minister of Foreign Affairs of Ukraine.	Non-acceptance would cause embarrassment to donor and U.S. Government.
The Honorable Condoleezza Rice, Secretary of State of the United States.	Plaque from the 2008 Olympics—5 gold-plated Olympic mascots, limited edition #22,470 of 50,000. Rec'd—January 1, 2008. Est. Value—$1,000.00. Disposition—Permission to Retain for official use only.	Unknown Foreign Government Official, People's Republic of China.	Non-acceptance would cause embarrassment to donor and U.S. Government.

AGENCY: DEPARTMENT OF STATE—Continued

[Report of Tangible Gifts]

Name and title of person accepting the gift on behalf of the U.S. Government	Gift, date of acceptance on behalf of the U.S. Government, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
The Honorable Condoleezza Rice, Secretary of State of the United States.	Framed picture of trees on hillside surrounding stream made of amber and quartz. Rec'd—September 29, 2008. Est. Value—$385.00. Location—Pending Transfer to General Services Administration.	Her Excellency Yuliya Volodymyrivna Tymoshenko, Prime Minister of Ukraine.	Non-acceptance would cause embarrassment to donor and U.S. Government.
The Honorable Condoleezza Rice, Secretary of State of the United States.	1. 1 Bottle (2.5 fl oz) of Guerlain perfume with sprayer 2. porcelain dish by Hermes. Rec'd—July 14, 2008. Est. Value—$1,120.00. Location—Pending Transfer to General Services Administration.	His Excellency Edward Nalbandian, Minister of Foreign Affairs of the Republic of Armenia.	Non-acceptance would cause embarrassment to donor and U.S. Government.
The Honorable Condoleezza Rice, Secretary of State of the United States.	3 screen picture frame with Indian art. Rec'd—March 24, 2008. Est. Value—$365.00. Location—Pending Transfer to General Services Administration.	His Excellency Pranab Kumar Mukherjee, Minister of External Affairs of the Republic of India.	Non-acceptance would cause embarrassment to donor and U.S. Government.
The Honorable Condoleezza Rice, Secretary of State of the United States.	Gold arched building with clock, entitled ''Babel Bahrain''. Rec'd—March 24, 2008. Est. Value—$940.00. Location—Pending Transfer to General Services Administration.	His Majesty King Hamad Bin Isa Bin Salman Al-Khalifa, King of the Kingdom of Bahrain.	Non-acceptance would cause embarrassment to donor and U.S. Government.
The Honorable Condoleezza Rice, Secretary of State of the United States.	1. Tan and grey bowl with leaf design signed by artist at bottom 2. Larger tan and grey bowl with leaf design signed by artist at bottom—arrived BROKEN. Rec'd—November 5, 2008. Est. Value—$570.00. Location—Pending Transfer to General Services Administration.	His Majesty King Abdullah II bin Al Hussein, King of the Hashemite Kingdom of Jordan.	Non-acceptance would cause embarrassment to donor and U.S. Government.
The Honorable Condoleezza Rice, Secretary of State of the United States.	Leather presentation box with (1) glass candle votive with mother-of-pearl and tooled leather decor, (2) mother-of-pearl photo frame, (3) candle holder (4) leather desk decorations. Rec'd—January 16, 2008. Est. Value—$425.00. Location—Pending Transfer to General Services Administration.	His Majesty and Her Majesty King Abdullah and Queen Rania, King and Queen of the Hashemite Kingdom of Jordan.	Non-acceptance would cause embarrassment to donor and U.S. Government.
The Honorable Condoleezza Rice, Secretary of State of the United States.	Rug 36″ × 60″ in green bag. Rec'd—October 24, 2008. Est. Value—$350.00. Location—Pending Transfer to General Services Administration.	His Excellency Rehman Malik, Minister of Interior of the Islamic Republic of Pakistan.	Non-acceptance would cause embarrassment to donor and U.S. Government.
The Honorable Condoleezza Rice, Secretary of State of the United States.	Framed carpet (probably silk on wool), autumn landscape with trees on the sides, path in the middle—approx 3.5′ × 2.5′. Rec'd—January 15, 2008. Est. Value—$550.00. Location—Pending Transfer to General Services Administration.	His Excellency Sayyed Abdul Aziz Al-Hakim, Chairman of the Supreme Council for Islamic Revolution in Iraq.	Non-acceptance would cause embarrassment to donor and U.S. Government.
The Honorable Condoleezza Rice, Secretary of State of the United States.	Statue of a golden eagle on a marble stone slab, received with damage to the base. Rec'd—January 13, 2007. Est. Value—$1,850.00. Location—Pending Transfer to General Services Administration.	His Highness Sheikh Khalifa bin Zayed Al Nahyan, President of the United Arab Emirates.	Non-acceptance would cause embarrassment to donor and U.S. Government.

AGENCY: DEPARTMENT OF STATE—Continued

[Report of Tangible Gifts]

Name and title of person accepting the gift on behalf of the U.S. Government	Gift, date of acceptance on behalf of the U.S. Government, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
The Honorable Condoleezza Rice, Secretary of State of the United States.	Painting by Hussein Sherif in black leather case, 19″ × 12.5″. Rec'd—July 21, 2008. Est. Value—$780.00. Location—Pending Transfer to General Services Administration.	His Excellency Abdullah bin Zayed, Foreign Minister of the United Arab Emirates.	Non-acceptance would cause embarrassment to donor and U.S. Government.
The Honorable Condoleezza Rice, Secretary of State of the United States.	Abstract painting. Rec'd—August 8, 2008. Est. Value—$6,400.00. Location—Pending Transfer to General Services Administration.	His Highness Mohammad bin Rashid al Maktoum, Vice President and Prime Minister of the United Arab Emirates and Ruler of Dubai.	Non-acceptance would cause embarrassment to donor and U.S. Government.
The Honorable Condoleezza Rice, Secretary of State of the United States.	1. Moroccan pottery plate and bowl set 2. Book on Marrakech. Rec'd—September 6, 2008. Est. Value—$380.00. Location—Pending Transfer to General Services Administration.	His Excellency Abbas El Fassi, Prime Minister of the Kingdom of Morocco.	Non-acceptance would cause embarrassment to donor and U.S. Government.
The Honorable Condoleezza Rice, Secretary of State of the United States.	Replica of a gold cup found in Trialeti, village Tsalkaddoring excavations dated XVIII–XVII B.C. Rec'd—March 19, 2008. Est. Value—$590.00. Location—Pending Transfer to General Services Administration.	His Excellency Mikheil Saakashvili, President of Georgia.	Non-acceptance would cause embarrassment to donor and U.S. Government.
The Honorable Condoleezza Rice, Secretary of State of the United States.	1. Silver and aromatic-wood ornamental vessel 2. Silver and aromatic-wood perfume bottle-shaped table ornament. Rec'd—September 6, 2008. Est. Value—$625.00. Location—Pending Transfer to General Services Administration.	His Excellency Zine El-Abidine Ben Ali, President of the Republic of Tunisia.	Non-acceptance would cause embarrassment to donor and U.S. Government.
The Honorable Condoleezza Rice, Secretary of State of the United States.	1. Jeweled chalase (gold cup) inside wooden box. 2. Tbilivno—special reserve wine. 3. Sarajishvili—Georgian Cognac. Rec'd—July 9, 2008. Est. Value—$360.00. Location—Pending Transfer to General Services Administration.	His Excellency Mikheil Saakashvili, President of Georgia.	Non-acceptance would cause embarrassment to donor and U.S. Government.
The Honorable Condoleezza Rice, Secretary of State of the United States.	1: Bottle of fragrance for women—Eau de Parfum ''Amouge Lyric''. 2: Bottle of fragrance for men ''Amouge Lyric''. Rec'd—October 6, 2008. Est. Value—$510.00. Location—Pending Transfer to General Services Administration.	His Excellency Badr Hamad Hamood Al-Busaidi, Secretary General and Minister of Foreign Affairs of the Sultanate of Oman.	Non-acceptance would cause embarrassment to donor and U.S. Government.
The Honorable Nancy G. Brinker, Chief of Protocol.	Gold-plated camel and man walking in water, gold waves on tap of 4 sacks on camel back with molded faux marble/green plastic base. Rec'd—January 2, 2008. Est. Value—$880.00. Location—Pending Transfer to General Services Administration.	His Highness Sheikh Khalifa bin Zayed Al Nahyan, President of the United Arab Emirates.	Non-acceptance would cause embarrassment to donor and U.S. Government.
The Honorable Michele Sison, U.S. Ambassador to the United Arab Emirates.	Gold-plated figure of kneeling boy holding onto standing goat with head lowered, on faux marble green plastic base. Rec'd—January 2, 2008. Est. Value—$800.00. Location—Pending Transfer to General Services Administration.	His Highness Sheikh Khalifa bin Zayed Al Nahyan, President of the United Arab Emirates.	Non-acceptance would cause embarrassment to donor and U.S. Government.

AGENCY: DEPARTMENT OF STATE—Continued

[Report of Tangible Gifts]

Name and title of person accepting the gift on behalf of the U.S. Government	Gift, date of acceptance on behalf of the U.S. Government, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
The Honorable Ford Fraker, U.S. Ambassador to Saudi Arabia.	(1) His and Hers black and white watches (2) silver cufflinks (3) diamond earrings, lattice bracelet, and ring set (4) silver pen with diamonds. Rec'd—January 14, 2008. Est. Value—$45,000.00. Location—Pending Transfer to General Services Administration.	His Royal Highness Abdullah bin Abd al-Aziz Al Saud, Custodian of the Two Holy Mosques and King of the Kingdom of Saudi Arabia.	Non-acceptance would cause embarrassment to donor and U.S. Government.
The Honorable Clark T. Randt, Jr., U.S. Ambassador to the People's Republic of China.	Bronze " ding" a vessel used in ancient China, approximately 10 pounds. Rec'd—October 21, 2008. Est. Value—$400.00. Disposition—Permission to Retain for official use only.	His Excellency Dai Bingguo, State Councilor of the People's Republic of China.	Non-acceptance would cause embarrassment to donor and U.S. Government.
The Honorable Nancy G. Brinker, Chief of Protocol.	1: Robe; silk with paisley design in red and ivory, bancs of goldwrapped thread, lined in golden yellow cat-type fur 2: Shawl; wool, 5-petal rosettes, beige and maroon; both held in red and white velour box with 2 combo locks. Rec'd—January 1, 2008. Est. Value—$2,510.00. Location—Pending Transfer to General Services Administration.	His Royal Highness Abdullah bin Abd al-Aziz Al Saud, Custodian of the Two Holy Mosques and King of the Kingdom of Saudi Arabia.	Non-acceptance would cause embarrassment to donor and U.S. Government.
The Honorable Peter Coneway, U.S. Ambassador to Switzerland.	$2,700 Swiss Francs in cash. Rec'd—November 19, 2008. Est. Value—$2,464.34. Location—Pending Transfer to General Services Administration.	His Excellency Francesco Canalini, Apostolic Nuncio of the Holy See.	Non-acceptance would cause embarrassment to donor and U.S. Government.
Bryan Langley, Assistant Chief of Protocol.	Rolex watch style M499314 # 116000–70200. Rec'd—August 29, 2008. Est. Value—$3,750.00. Location—Pending Transfer to General Services Administration.	His Highness Mohammad bin Rashid al Maktoum, Vice President and Prime Minister of the United Arab Emirates and Ruler of Dubai.	Non-acceptance would cause embarrassment to donor and U.S. Government.
The Honorable David Welch, Assistant Secretary of State for Near Eastern Affairs.	1. Green leather briefcase 2. silver pen with diamonds 3. silver cufflinks 4. ladies' watch with blue face and band 5. men's watch with white face 6. Sapphire and diamond set of earrings, bracelet and ring. Rec'd—January 14, 2008. Est. Value—$45,000.00. Location—Pending Transfer to General Services Administration.	His Royal Highness Abdullah bin Abd al-Aziz Al Saud, Custodian of the Two Holy Mosques and King of the Kingdom of Saudi Arabia.	Non-acceptance would cause embarrassment to donor and U.S. Government.
The Honorable Sean McCormack, Assistant Secretary of State for Public Affairs and Department Spokesman.	Men's watch, RADO brand with small likeness of Qadhafi's face on watch face. Rec'd—September 4, 2008. Est. Value—$800.00. Location—Pending Transfer to General Services Administration.	Colonel Muammar Abu Minyar al-Qadhafi, Leader of the Revolution of the Great Socialist People's Libyan Arab Jamahiriya.	Non-acceptance would cause embarrassment to donor and U.S. Government.
The Honorable Nancy G. Brinker, Chief of Protocol.	(1) His and Hers watches (2) emerald and diamond bracelet, earrings, and ring set (3) cufflinks with onyx (4) Tiffany's pen. Rec'd—January 14, 2008. Est. Value—$65,000.00. Location—Pending Transfer to General Services Administration.	His Royal Highness Abdullah bin Abd al-Aziz Al Saud, Custodian of the Two Holy Mosques and King of the Kingdom of Saudi Arabia.	Non-acceptance would cause embarrassment to donor and U.S. Government.

AGENCY: DEPARTMENT OF STATE—Continued

[Report of Tangible Gifts]

Name and title of person accepting the gift on behalf of the U.S. Government	Gift, date of acceptance on behalf of the U.S. Government, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
The Honorable Clark T. Randt, Jr., U.S. Ambassador to the People's Republic of China.	Traditional Chinese small clay teapot produced by artist. Rec'd—September 22, 2008. Est. Value—$1,857.00. Disposition—Permission to Retain for official use only.	Mr. Lu Chang Cheng, Director General of the Public Security Bureau of Beijing Capital International Airport.	Non-acceptance would cause embarrassment to donor and U.S. Government.
The Honorable Clark T. Randt, Jr., U.S. Ambassador to the People's Republic of China.	Traditional rug, approximately 3x5 feet, red with colored pattern. Rec'd—October 10, 2008. Est. Value—$500.00. Disposition—Permission to Retain for official use only.	His Excellency Ahmad Eklil Hakimi, Ambassador of Afghanistan to China.	Non-acceptance would cause embarrassment to donor and U.S. Government.
Jess Baily, U.S. Team Leader, Erbil Regional Reconstruction Team in Iraq.	6.1 × 4.2 foot silk carpet of Iranian origin. Rec'd—June 23, 2008. Est. Value—$1,900.00. Location—Transfer to General Services Administration.	His Excellency Nechervan Idris Barzani, Prime Minister of the Kurdistan Regional Government in Erbil, Iraq.	Non-acceptance would cause embarrassment to donor and U.S. Government.
The Honorable David Hale, U.S. Ambassador to Jordan.	One Audemars Piguet Royal Oak Jumbo watch with steel bracelet and white dial. Rec'd—February 7, 2008. Est. Value—$12,500.00. Location—Pending Transfer to General Services Administration.	His Majesty Abdullah II bin al Hussein, King of the Hashemite Kingdom of Jordan.	Non-acceptance would cause embarrassment to donor and U.S. Government.
Tatum Fraites, Intern in the Office of the Chief of Protocol.	Women's silver TagHeuer watch with pink face, "Aqua Pacer" REC3082. Rec'd—September 3, 2008. Est. Value—$2,600.00. Location—Pending Transfer to General Services Administration.	His Highness Mohammad bin Rashid al Maktoum, Vice President and Prime Minister of the United Arab Emirates and Ruler of Dubai.	Non-acceptance would cause embarrassment to donor and U.S. Government.
Veronica Ruano, Protocol Officer ..	Women's silver TagHeuer watch— "Aqua Pacer" ERM9625. Rec'd—August 26, 2008. Est. Value—$1,500.00. Location—Pending Transfer to General Services Administration.	His Highness Mohammad bin Rashid al Maktoum, Vice President and Prime Minister of the United Arab Emirates and Ruler of Dubai.	Non-acceptance would cause embarrassment to donor and U.S. Government.
Thomas Rathburn, Budget Analyst for Office of the Chief of Protocol.	Men's TagHeuer Watch—silver with black face. Rec'd—August 29, 2008. Est. Value—$3,400.00. Location—Pending Transfer to General Services Administration.	His Highness Mohammad bin Rashid al Maktoum, Vice President and Prime Minister of the United Arab Emirates and Ruler of Dubai.	Non-acceptance would cause embarrassment to donor and U.S. Government.
The Honorable David Hale, U.S. Ambassador to Jordan.	One MTM Special Ops Black Predator Military watch. Rec'd—July 2, 2008. Est. Value—$450.00. Location—Pending Transfer to General Services Administration.	His Majesty King Abdullah II bin al Hussein, King of the Hashemite Kingdom of Jordan and His Excellency Prince Faisal Al Fayez, Minister of the Royal Court of the Hashemite Kingdom of Jordan.	Non-acceptance would cause embarrassment to donor and U.S. Government.
The Honorable Goli Ameri, Assistant Secretary of State for Educational and Cultural Affairs.	Synthetic, red and yellow Persian Rug, 4 × 6 feet. Rec'd—July 17, 2008. Est. Value—$340.00. Location—Pending Transfer to General Services Administration.	His Excellency Bahram Aksharzaden, President of the Islamic Republic of Iran Weightlifting Federation, Iranian Ministry of Sport.	Non-acceptance would cause embarrassment to donor and U.S. Government

AGENCY: CENTRAL INTELLIGENCE AGENCY

[Report of Tangible Gifts]

Name and title of person accepting the gift on behalf of the U.S. Government	Gift, date of acceptance on behalf of the U.S. Government, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
The Honorable Michael V. Hayden, Director.	Sword with a copper and brass hilt in a leather scabbard. Rec'd—1/18/2008. Est. Value—$400.00. Location—To be retained for official display in appropriate office space.	5 U.S.C. 7342(f)(4)	Non-acceptance would cause embarrassment to donor and U.S. Government.
The Honorable Michael V. Hayden, Director.	Enamel and gilt sword with scabbard scimitar. Rec'd—3/12/2008. Est. Value—$500.00. Location—To be retained for official display in appropriate office space.	5 U.S.C. 7342(f)(4)	Non-acceptance would cause embarrassment to donor and U.S. Government.
The Honorable Michael V. Hayden, Director.	Brass and green enamel model of a building, mounted on a green marble base. Rec'd—6/9/2008. Est. Value—$400.00. Location—To be retained for official display in appropriate office space.	5 U.S.C. 7342(f)(4)	Non-acceptance would cause embarrassment to donor and U.S. Government.
Mr. Stephen R. Kappes, Deputy Director.	Gold plated replica of a building on a green leather plinth. Rec'd—12/17/2008. Est. Value—$400.00. Location—To be retained for official display in appropriate office space.	5 U.S.C. 7342(f)(4)	Non-acceptance would cause embarrassment to donor and U.S. Government.
An Agency Employee	Silk rug, 6 feet by 4 feet, red and navy with zig zag border. Rec'd—9/28/2007. Est. Value—$500.00. Location—To be retained for official display in appropriate office space.	5 U.S.C. 7342(f)(4)	Non-acceptance would cause embarrassment to donor and U.S. Government.
An Agency Employee	Silk rug, 6 feet by 4 feet, red and navy with zig zag border. Rec'd—9/28/2007. Est. Value—$500.00. Location—To be retained for official display in appropriate office space.	5 U.S.C. 7342(f)(4)	Non-acceptance would cause embarrassment to donor and U.S. Government.

AGENCY: DEPARTMENT OF AIR FORCE

[Report of Tangible Gifts]

Name and title of person accepting the gift on behalf of the U.S. Government	Gift, date of acceptance on behalf of the U.S. Government, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
Colonel Martin J. Schans, Commander, 47th Operations Group Laughlin AFB, TX.	Gentlemen's Rolex Date Just Watch. Rec'd—7/29/2007. Est. Value—$4,403.00. Location—Transferred to GSA on 23 April 2008.	Major General Mohhamed Al-Ayeesh, Deputy Commander, Royal Saudi Air Force.	Non-acceptance would cause embarrassment to donor and U.S. Government.
Major General Vern M. Dindley II, Director, Strategy, Plans and Policy United States Central Command (USCENTCOM), MacDill AFB, FL.	Fendi (Swiss) Automatic Wristwatch. Rec'd—1/16/2008. Est. Value—$895.00. Location—Transferred to GSA on 23 April 2008.	Major General Muhammad Sowaidan Al Gimzy, Chairman of Defense Representative, United Arab Emirates.	Non-acceptance would cause embarrassment to donor and U.S. Government.
Colonel Daniel Charchian, Chief, Air Force Division, United States Military Training Mission to Saudi Arabia (USMTM), Riyadh, Saudi Arabia.	Raymond Weil Tango Wristwatch. Rec'd—9/3/2008. Est. Value—$695.50. Location—Transferred to GSA on 15 October 2008.	Lieutenant General Al-Faisal, Commander, Royal Saudi Air Force, Kingdom of Saudi Arabia.	Non-acceptance would cause embarrassment to donor and U.S. Government.

AGENCY: DEPARTMENT OF AIR FORCE—Continued

[Report of Tangible Gifts]

Name and title of person accepting the gift on behalf of the U.S. Government	Gift, date of acceptance on behalf of the U.S. Government, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
Colonel Frank E. Fields, Commander, 437th Operations Group, Charleston, SC.	Grovana Wristwatch ($419); Givenchy Wallet ($250); Angel Schlessor Cologne for Men, 50 ml ($55). Rec'd—1/1/2008. Est. Value—$724.00. Location—Transferred to GSA on 15 October 2008.	Maj Gen Hamed Bin Ali Al-Attiyah, Chief of Staff for the Qatar Armed Forces.	Non-acceptance would cause embarrassment to donor and U.S. Government.
Colonel Frank E. Jones, 437th Mission Support Group Commander, Charleston, SC.	TechnoMarine Wristwatch ($617); Givenchy Wallet ($250); JBR Wallet ($250); Angel Schlessor Cologne for Men, 50 ml ($55). Rec'd—1/1/2008. Est. Value—$2,172.00. Location—Transferred to GSA on 15 October 2008.	Major General Hamed Bin Ali Al-Attiyah, Chief of Staff for the Qatar Armed Forces.	Non-acceptance would cause embarrassment to donor and U.S. Government.
Colonel Donnalee Sykes, 437th Medical Group, Charleston, SC.	TechnoMarine Wristwatch ($617); Givenchy Wallet ($250); Givenchy Very Irresistible Cologne for Men ($64). Rec'd—1/1/2008. Est. Value—$931.00. Location—Transferred to GSA on 15 October 2008.	Major General Hamed Bin Ali Al-Attiyah, Chief of Staff for the Qatar Armed Forces.	Non-acceptance would cause embarrassment to donor and U.S. Government.
Mr. Norman Moore, Deputy Commander, 437th Maintenance Group, Charleston, SC.	TechnoMarine Wristwatch ($578); Givenchy Wallet ($250). Rec'd—1/1/2008. Est. Value—$828.00. Location—Transferred to GSA on 15 October 2008.	Major General Hamed Bin Ali Al-Attiyah, Chief of Staff for the Qatar Armed Forces.	Non-acceptance would cause embarrassment to donor and U.S. Government.
Lieutenant Colonel Leon Strickland, 16th Airlift Squadron, Qatar Visit Project Officer, Charleston, SC.	Concord Saratoga Ladies Watch ($649); Givenchy Very Irresistible for Men ($64). Rec'd—1/1/2008. Est. Value—$649.00. Location—Transferred to GSA on 15 October 2008.	Major General Hamed Bin Ali Al-Attiyah, Chief of Staff for the Qatar Armed Forces.	Non-acceptance would cause embarrassment to donor and U.S. Government.
Lieutenant Colonel Leon Strickland, 16th Airlift Squadron, Qatar Visit Project Officer, Charleston, SC.	Concord Saratoga Ladies Watch ($649); Givenchy Very Irresistible for Men ($64). Rec'd—1/1/2008. Est. Value—$649.00. Location—Transferred to GSA on 15 October 2008.	Major General Hamed Bin Ali Al-Attiyah, Chief of Staff for the Qatar Armed Forces.	Non-acceptance would cause embarrassment to donor and U.S. Government.

AGENCY: DEPARTMENT OF COMMERCE

[Report of Travel]

Name and title of person accepting the gift on behalf of the U.S. Government	Gift, date of acceptance on behalf of the U.S. Government, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
James Mayfield, Commercial Officer, International Trade Administration (ITA).	Hotel Lodging. Rec'd—October 22—23, 2008. Est. Value—$438.00.	Sam Lei, Senior Manager of Promotional Activities Dept, Institute de Promocao do Comercio e do Investimento de Macau (IPIM).	Non-acceptance would cause embarrassment to donor and U.S. Government.

AGENCY: DEPARTMENT OF DEFENSE, U.S. MARINE CORPS

[Report of Tangible Gifts]

Name and title of person accepting the gift on behalf of the U.S. Government	Gift, date of acceptance on behalf of the U.S. Government, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
Major General Martin Post, Deputy Commanding General, Multi National Force-West (I Marine Expeditionary Force (Forward) [I MEF (Fwd)]).	Momo Design Pilot Watch—MD–064. Rec'd—1/25/2008. Est. Value—$900.00. Location—Pending Transfer to General Services Administration.	Sheikh Tariq Khalaf Abdullah Halbusi. He is Iraqi, but lives in Amman, Jordan.	Non-acceptance would cause embarrassment to donor and U.S. Government.
Major General John F. Kelly, Commanding General, Multi National Force-West (I Marine Expeditionary Force (Forward) [I MEF (Fwd)]).	Formex Watch. Rec'd—6/1/2008. Est. Value—$1,995. Location—Pending Transfer to General Services Administration.	Sheikh Jassim Muhammad Saleh al-Suwaydawie, Province, Iraq.	Non-acceptance would cause embarrassment to donor and U.S. Government.

AGENCY: DEPARTMENT OF EDUCATION

[Report of Tangible Gifts]

Name and title of person accepting the gift on behalf of the U.S. Government	Gift, date of acceptance on behalf of the U.S. Government, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
The Honorable Margaret Spellings, Secretary of Education.	Oil painting of desert outpost by Hussein Sherif, UAE, size 40x50. Rec'd—6/4/2008. Est. Value—$1,361.26. Location—Pending Transfer to GSA.	His Excellency Minister Hanif Hassan, Minister of Education of the United Arab Emirates.	Non-acceptance would cause embarrassment to donor and U.S. Government.
The Honorable Margaret Spellings, Secretary of Education.	Cartier ball point pen. Rec'd—1/2/2008. Est. Value—$345.00. Location—Pending Transfer to GSA.	His Excellency Yousef Al Otaiba, Ambassador of the United Arab Emirates.	Non-acceptance would cause embarrassment to donor and U.S. Government.

AGENCY: DEPARTMENT OF THE NAVY

[Report of Travel]

Name and title of person accepting the gift on behalf of the U.S. Government	Gift, date of acceptance on behalf of the U.S. Government, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
Rear Admiral Nevin P. Carr, Jr., U.S. Navy, Deputy Assistant Secretary of Navy (International Programs)/Director, Navy International Programs Office.	Expended for commercial air transportation from Paris, France to Toulon, France and return. Rec'd—10/27/2008. Est. Value—$486.00.	Rear Admiral Jacques Cousguer, Director of Naval Systems Technical Expertise Directorate Delegation Generale Pour L'Armament (DGA); Paris, France.	Non-acceptance would cause embarrassment to donor and U.S. Government.
Lieutenant Junior Grade (LTJG) Stephen W. Hedrick, U.S. Navy, Aide to the Deputy Assistant Secretary of the Navy International Programs/Director, Navy International Programs Office.	Expended for commercial air transportation from Paris, France to Toulon, France and return. Rec'd—10/27/2008. Est. Value—$486.00.	Rear Admiral Jacques Cousguer, Director of Naval Systems Technical Expertise Directorate Delegation Generale Pour L'Armament (DGA); Paris, France.	Non-acceptance would cause embarrassment to donor and U.S. Government.
Admiral Mark P. Fitzgerald, U.S. Navy, Commander, U.S. Naval Forces, Europe and accompanying staff.	Expended for lodging in Venice, Italy. Rec'd—10/14–17/2008. Est. Value—$3,429.47.	Admiral Paolo La Rosa, Chief of Staff, Italian Navy.	Non-acceptance would cause embarrassment to donor and U.S. Government.
Admiral Mark P. Fitzgerald, U.S. Navy, Commander, U.S. Naval Forces, Europe and accompanying staff.	Expended for lodging and meals in Bahrain. Rec'd—1/22/2008. Est. Value—$916.30.	His Majesty Shaikh Hamad Bin Isa Bin Salman Al-Khalifa, King of the Kingdom of Bahrain.	Non-acceptance would cause embarrassment to donor and U.S. Government
Admiral Mark P. Fitzgerald, U.S. Navy, Commander, U.S. Naval Forces, Europe and accompanying staff.	Expended for lodging in Greece. Rec'd—4/2–3/2008. Est. Value—$17,939.80.	General Dimitrios Grapas, Chief of Hellinic National Defense General Staff.	Non-acceptance would cause embarrassment to donor and U.S. Government.
Admiral Mark P. Fitzgerald, U.S. Navy, Commander, U.S. Naval Forces, Europe and accompanying staff.	Expended for lodging in Brijuli Island, Croatia. Rec'd—10/25–27/2008. Est. Value—$3,166.00.	Major General Josip Lucic, Chief of Defense, Croatia.	Non-acceptance would cause embarrassment to donor and U.S. Government.

AGENCY: DEPARTMENT OF THE NAVY—Continued

[Report of Travel]

Name and title of person ccepting the gift on behalf of the U.S. Government	Gift, date of acceptance on behalf of the U.S. Government, stimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
Admiral Mark P. Fitzgerald, U.S. Navy, Commander, U.S. Naval Forces, Europe and accompanying staff.	Expended for lodging in Ohrid, Macedonia. Rec'd—10/7–9/2008. Est. Value—$820.00.	His Excellency Zoran Konjanovski, Minister of Defense of the Republic of Macedonia.	Non-acceptance would cause embarrassment to donor and U.S. Government.
Admiral Mark P. Fitzgerald, U.S. Navy, Commander, U.S. Naval Forces, Europe and accompanying staff.	Expended for lodging in Ljublijana. Slovenia. Rec'd—12/16–17/2008. Est. Value—$1,044.00.	Lieutenant General (LTG) Albin Gutman, Chief of Defense General Staff for Slovenia.	Non-acceptance would cause embarrassment to donor and U.S. Government.

AGENCY: DEPARTMENT OF THE ARMY

[Report of Tangible Gifts]

Name and title of person accepting the gift on behalf of the U.S. Government	Gift, date of acceptance on behalf of the U.S. Government, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
Major General Benjamin Mixon, Commanding General 25th Infantry Division.	Quom Medallion design rug, silk pile on silk foundation, 6′4″ × 9′9″. Rec'd—8/30/2007. Est. Value—$8,500.00. Disposition—Tropic Lightning Museum, 25th Infantry Division, Fort Shafter, HI for Official Use.	Prime Minister Barzani, Kurdish Region, Iraq.	Non-acceptance would cause embarrassment to donor and U.S. Government.
Lieutenant General Steven R. Whitcomb, Commander, Third Army/U.S. Army Central/Coalition Forces Land Component Command.	Etienne Aigner designer silver and horseshoe-shaped MEN's watch ($900); Etienne Aigner designer silver and horseshoe-shaped WOMEN's watch ($900). Rec'd—10/2007. Est. Value—$1,800.00. Disposition—Turned in to GSA.	Major General Duail Slaman Al Khalifa, Chief of Staff, Bahrain Defense Forces.	Non-acceptance would cause embarrassment to donor and U.S. Government.
Lieutenant General Steven R. Whitcomb, Commander, Third Army/U.S. Army Central/Coalition Forces Land Component Command.	(1) Etienne Aigner designer watch A19211 ($305); (2) Givenchy pale pink leather woman's wallet ($200). Rec'd—10/2007. Est. Value—$505.00. Disposition—Turned in to GSA.	Unknown Kuwait Government Official.	Non-acceptance would cause embarrassment to donor and U.S. Government.
Lieutenant General Steven R. Whitcomb, Commander, Third Army/U.S. Army Central/Coalition Forces Land Component Command.	Christian Dior silver band, gold face woman's watch. Rec'd—2006. Est. Value—$500.00. Disposition—Turned in to GSA.	Brigadier General Fahed Al-Qyarain, Land Forces Commander, Qatar.	Non-acceptance would cause embarrassment to donor and U.S. Government.
Lieutenant General Steven R. Whitcomb, Commander, Third Army/U.S. Army Central/Coalition Forces Land Component Command.	Christian Dior silver band, square face man's watch. Rec'd—6/26/2007. Est. Value—$600.00. Disposition—Turned in to GSA.	Brigadier General Fahed Al-Qyarain, Land Forces Commander, Qatar.	Non-acceptance would cause embarrassment to donor and U.S. Government.
Lieutenant General Steven R. Whitcomb, Commander, Third Army/U.S. Army Central/Coalition Forces Land Component Command.	Murex silver with round face man's watch. Rec'd—2007. Est. Value—$350.00. Disposition—Turned in to GSA.	Unknown Qatar Government Official.	Non-acceptance would cause embarrassment to donor and U.S. Government.
Lieutenant General Steven R. Whitcomb, Commander, Third Army/U.S. Army Central/Coalition Forces Land Component Command.	Breitling silver with oversized face man's watch. Rec'd—2007. Est. Value—$3,000.00. Disposition—Turned in to GSA.	Unknown Qatar Government Official.	Non-acceptance would cause embarrassment to donor and U.S. Government.
Lieutenant General Steven R. Whitcomb, Commander, Third Army/U.S. Army Central/Coalition Forces Land Component Command.	De-milled cased AK 47. Rec'd—10/1/2007. Est. Value—$795.00. Location—Headquarters Third Army/U.S. Army Central/Coalition Forces Land Component Command APO AE 09306 for Official Use.	Major General Al-Kabe, United Arab Emirates.	Non-acceptance would cause embarrassment to donor and U.S. Government.

AGENCY: DEPARTMENT OF THE ARMY—Continued

[Report of Tangible Gifts]

Name and title of person accepting the gift on behalf of the U.S. Government	Gift, date of acceptance on behalf of the U.S. Government, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
Major General Mark P. Hertling, Commanding General, Multi-National Division-North.	Pamshal Factory Carpet, 200 cm × 300 cm. Rec'd—4/10/2008. Est. Value—$600.00. Location—Location: Freedom Rest-North Facility, 1st Armored Division, Multi-National Division-North, Contingency Operating Base Speicher, Tikrit, Iraq, APO AE 09393 for Official Use.	Lieutenant General P.K. Sing, Para Vishisht Seva Medal, Ati Vishist Seva Meda, General Officer Commanding-in-Chief. H2 South Western Command of the Republic of Indonesia.	Non-acceptance would cause embarrassment to donor and U.S. Government.
Brigadier General Vincent K. Brooks, Deputy Commanding General (Support), Multi-National Division Baghdad and 1st Cavalry Division.	Handmade floral area rug, 7′ × 10′. Rec'd—11/20/2007. Est. Value—$1,000.00. Location—Location: 1st Cavalry Division Command Group's Headquarters, Iraq for Official Use.	Sheik Umar al-Jubur, Advisor to Iraqi Vice President Tariq al-Hashimi.	Non-acceptance would cause embarrassment to donor and U.S. Government.
Major General Peter M. Vangjel, Commanding General, United States Fires Center of Excellence and Fort Sill.	Longines Presence watch, model L4.720.4.12.6. Rec'd—8/7/2008. Est. Value—$750.00. Location—Location: Snow Hall, U.S. Army Field Artillery School, 1210 NW Schimmelpfennig Road, Fort Sill, OK 73503. Kept for Official Use.	Major Saeed, Field Artillery, Army, United Arab Emirates.	Non-acceptance would cause embarrassment to donor and U.S. Government.
Major General Francis J. Wiercinski, Deputy Commanding General, Multi-National Division-North, Iraq.	Persian Iranian rug. Rec'd—9/27/2007. Est. Value—$1,000.00. Location—Disposition: Pending Transfer to General Services Administration.	Prime Minister Nechirvan Barzani, Prime Minister, Kurdistan Regional Government.	Non-acceptance would cause embarrassment to donor and U.S. Government.
Major General Francis J. Wiercinski, Deputy Commanding General, Multi-National Division-North, Iraq.	Gold necklace. Rec'd—9/29/2007. Est. Value—$1,500.00. Location—Disposition: Pending Transfer to General Services Administration.	Oil Director of Kurdistan Regional Government.	Non-acceptance would cause embarrassment to donor and U.S. Government.
Major General Francis J. Wiercinski, Deputy Commanding General, Multi-National Division-North, Iraq.	Gold necklace, earrings, and ring set). Rec'd—10/5/2007. Est. Value—$1,800.00. Location—Disposition: Pending Transfer to General Services Administration.	Sarkis Aghajan Manendu, Minister of Finance and Economy for Kurdistan Regional Government.	Non-acceptance would cause embarrassment to donor and U.S. Government.
Major General Francis J. Wiercinski, Deputy Commanding General, Multi-National Division-North, Iraq.	Red Persian rug. Rec'd—10/1/2007. Est. Value—$2,000.00. Location—Disposition: Pending Transfer to General Services Administration.	Minister of Defense for Kurdistan Regional Government.	Non-acceptance would cause embarrassment to donor and U.S. Government.
Major General Francis J. Wiercinski, Deputy Commanding General, Multi-National Division-North, Iraq.	Cultural dance outfit. Rec'd—10/8/2007. Est. Value—$350.00. Location—Disposition: Pending Transfer to General Services Administration.	Minister Sarkazi (additonal data not available).	Non-acceptance would cause embarrassment to donor and U.S. Government.
Major General Michael D. Barbero, Director CJ3, Iraq.	Longines Presence man's watch. Rec'd—9/2008. Est. Value—$645.00. Location—Disposition: Pending Transfer to General Services Administration.	Prime Minster, Kurdistan Regional Government.	Non-acceptance would cause embarrassment to donor and U.S. Government.
Major General Mark P. Hertling, Commanding General, Multi-National Division-North.	Handmade silk Persian rug, 3′ × 5′. Rec'd—9/6/2008. Est. Value—$1,200.00. Location—Disposition: Pending Transfer to General Services Administration.	Governor Dana, Provisional Governor of Sulaymaniyah, Iraq.	Non-acceptance would cause embarrassment to donor and U.S. Government.
Lieutenant General Steven R. Whitcomb, Commander, Third Army/U.S. Army Central/Coalition Forces Land Component Command.	Concord Mariner woman's watch with mother of pearl face and diamonds ($1,000); 48 count pearl necklace with silver clasp in red jewelry pouch ($50). Rec'd—8/2006. Est. Value—$1,050.00. Disposition—Turned in to GSA.	Brigadier General Fahed Al-Qyarain, Land Forces Commander, Qatar.	Non-acceptance would cause embarrassment to donor and U.S. Government.

AGENCY: DEPARTMENT OF THE ARMY—Continued

[Report of Tangible Gifts]

Name and title of person accepting the gift on behalf of the U.S. Government	Gift, date of acceptance on behalf of the U.S. Government, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
Lieutenant General Steven R. Whitcomb, Commander, Third Army/U.S. Army Central/Coalition Forces Land Component Command.	Breitling Aviator man's watch. Rec'd—10/7/2007. Est. Value—$2,900.00. Location—Headquarters Third Army/U.S. Army Central/Coalition Forces Land Component Command APO AE 09306 for Official Use.	J3 Al-Isaa, J3, Kuwait Armed Forces.	Non-acceptance would cause embarrassment to donor and U.S. Government.
Brigadier General Francis J. Wiercinski, Deputy Commander, U.S. Army Pacific.	Quom Silk Persian Iranian rug, 3′2″ × 4′11″. Rec'd—8/4/2008. Est. Value—$1,500.00. Location—Purchased by Recipient.	President Masoud Barzani, Kurdish Region of Government (KRG).	Non-acceptance would cause embarrassment to donor and U.S. Government.
Colonel David G. Paschal, Commander, 1st Brigade Combat Team, 10th Mountain Division (LI), Iraq.	Longines gold and silver man's watch. Rec'd—10/3/2007. Est. Value—$1,000.00. Disposition—Turned in to GSA.	President Barzani, Kurdish Region of Government (KRG).	Non-acceptance would cause embarrassment to donor and U.S. Government.
Colonel David G. Paschal, Commander, 1st Brigade Combat Team, 10th Mountain Division (LI), Iraq.	Omega, his and her silver with crystal facets watches set. Rec'd—10/3/2007. Est. Value—$1,000.00. Disposition—Turned in to GSA.	General Saifadeen, Senior Security Officer Sulaymania Province, Iraq.	Non-acceptance would cause embarrassment to donor and U.S. Government.
Colonel David G. Paschal, Commander, 1st Brigade Combat Team, 10th Mountain Division (LI), Iraq.	Longines gold man's watch. Rec'd—2/12/2008. Est. Value—$875.00. Disposition—Turned in to GSA.	General Kawa, Chief, Kirkuk Police Academy, Iraq.	Non-acceptance would cause embarrassment to donor and U.S. Government.
Major General Mark P. Hertling, Commanding General, Multi-National Division-North.	Longines gold and silver man's watch. Rec'd—10/30/2007. Est. Value—$900.00. Disposition—Turned in to GSA.	President Barzani, Kurdish Region of Government (KRG).	Non-acceptance would cause embarrassment to donor and U.S. Government.
Major Ray Fallari, Contracting Officer, Multi-National Division-North, Iraq.	18K gold necklace with heart pendant ($175); 18K gold necklace with Iraq-shaped pendant ($175); Rec'd—9/21/2007. Est. Value—$350.00. Disposition—Turned in to GSA.	Unknown Iraq Government Official.	Non-acceptance would cause embarrassment to donor and U.S. Government.
Captain Harrison C. Kennedy, Contract and Fiscal Law Attorney, 2nd Stryker Brigade Combat Team, Camp Taji, Iraq.	21K gold chain, 27″ length. Rec'd—2/13/2008. Est. Value—$395.00. Disposition—Turned in to GSA.	Sheik Hamdi Muklif Melahma, Local Tribal Leader of Taji, Iraq.	Non-acceptance would cause embarrassment to donor and U.S. Government.
Mr. James Johnson, Executive Director, U.S. Army Developmental Test Command (DTC).	Baume and Mercier black face and band watch ($2,395); Givenchy blue label cologne ($86); Givenchy brown/tan geometric wallet ($200). Rec'd—1/8/2008. Est. Value—$2,681.00. Disposition—Turned in to GSA.	Major General Hamad Bin Al-Mahshadi, Chief of Staff, Qatar.	Non-acceptance would cause embarrassment to donor and U.S. Government.
Mr. James Johnson, Executive Director, U.S. Army Developmental Test Command (DTC).	Red velvet memento box with clasp that opens and plaque. Plaque is inscribed ''With the Compliments of the Chief of Staff—Qatar Armed Forces''. Rec'd—1/8/2008. Est. Value—Unknown. Location—U.S. Army Developmental Test Command (DTC), 314 Longs Corner Road, Aberdeen Proving Ground, MD 21005–5055 for Official Use. Value could not be determined—unique gift.	Major General Hamad Bin Al-Mahshadi, Chief of Staff, Qatar.	Non-acceptance would cause embarrassment to donor and U.S. Government.

AGENCY: DEPARTMENT OF THE ARMY—Continued

[Report of Tangible Gifts]

Name and title of person accepting the gift on behalf of the U.S. Government	Gift, date of acceptance on behalf of the U.S. Government, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
Mr. James Johnson, Executive Director, U.S. Army Developmental Test Command (DTC).	Wood pen with case inscribed with ''Chief of Staff Qatar Armed Forces'' ($45); Qatar Year Book 2004 with tourist map of Qatar and Doha City ($105). Rec'd—1/8/2008. Est. Value—$150.00. Location—U.S. Army Developmental Test Command (DTC), 314 Longs Corner Road, Aberdeen Proving Ground, MD 21005–5055 for Official Use.	Major General Hamad Bin Al-Mahshadi, Chief of Staff, Qatar.	Non-acceptance would cause embarrassment to donor and U.S. Government.
Lieutenant Colonel Thomas H. Mackey, Squadron Commander, 2nd Squadron, 14th Cavalry, 2nd Stryker Brigade Combat Team.	Machine made, red and gold floral rug, 9′ × 11′. Rec'd—5/21/2008. Est. Value—$400.00. Location—Headquarters, 2nd Brigade, 4th Infantry Division, Squadron area, Camp Taji, Iraq APO AE 09378 for Official Use.	Talib Zibala Ibraheem Al Jabouri, Local Tribal Leader of Shat Al Taji, Iraq.	Non-acceptance would cause embarrassment to donor and U.S. Government.
Lieutenant General Benjamin R. Mixon, Commanding General, Headquarters, U.S. Army, Pacific.	Contemporary Indian decorative white alabaster stone sculpture depicting a trumpeting elephant. Rec'd—2/14/2008. Est. Value—$1,250.00. Location—Headquarters, U.S. Army, Pacific, Fort Shafter, HI 96858–5100 for Official Use.	Lieutenant General P.K. Sing, Para Vishisht Seva Medal, Ati Vishist Seva Meda, General Officer Commanding-in-Chief. H2 South Western Command of the Republic of Indonesia.	Non-acceptance would cause embarrassment to donor and U.S. Government.

AGENCY: DEPARTMENT OF THE NAVY

[Report of Tangible Gifts]

Name and title of person accepting the gift on behalf of the U.S. Government	Gift, date of acceptance on behalf of the U.S. Government, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
The Honorable Donald C. Winter, Secretary of the Navy.	Oil Painting of the USS CONNECTICUT. Rec'd—6/12/2008. Est. Value—$1,000.00. Disposition—Secretary's Office, pending purchase.	Commodore David Anson, New Zealand Defense Attaché.	Non-acceptance would cause embarrassment to donor and U.S. Government.
The Honorable Donald C. Winter, Secretary of the Navy.	Gold dagger with sheath in a red velvet box (12″ long and 3.5″ wide). Rec'd—2/5/2008. Est. Value—$400.00. Disposition—Secretary's Office, pending purchase.	His Excellency Dr. Nasar Al Balooshi, Ambassador of Bahrain.	Non-acceptance would cause embarrassment to donor and U.S. Government.
Vice Admiral Kevin J. Cosgriff, U.S. Navy, Commander, U.S. Naval Forces Central Command; and Commander, Fifth Fleet; and Commander, Combined Maritime Forces.	Cerruti 1881 Collection of a black ball point pen, a black leather wallet (in black pouch) and a analog silver watch with black leather band and black face, Serial CT67241S103042 all presented in brown lacquered box with gold eagle on top and gold clasp. Rec'd—7/2/2008. Est. Value—$375.00. Location—General Services Administration.	Major General Hmad Al-Rumaithy, Chief of Staff, United Arab Emirates Armed Forces.	Non-acceptance would cause embarrassment to donor and U.S. Government.

AGENCY: DEPARTMENT OF THE NAVY—Continued

[Report of Tangible Gifts]

Name and title of person accepting the gift on behalf of the U.S. Government	Gift, date of acceptance on behalf of the U.S. Government, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
Lieutenant Richard S. Caldwell, U.S. Navy Reserves, U.S. Central Command, J2 Intelligence Directorate.	Stainless Steel Acquanautic Chronographe Cuda Swiss Man's analog Watch, chain link band with silver raised face, seahorse design on back side of face. Presented on cream colored leather cushioned pad with sea horse design. Rec'd—8/16/2008. Est. Value—$1,400.00. Location—Pending transfer to General Services Administration.	Colonel Hamad J. Al Neyadi, Army, United Arab Emirates Directorate of Military Intelligence and Security.	Non-acceptance would cause embarrassment to donor and U.S. Government.
The Honorable Donald C. Winter, Secretary of the Navy.	Silver Dagger with sheath (13″ long and 4″ wide). Rec'd—11/26/2006. Est. Value—$400.00. Disposition—Secretary's Office, pending purchase.	General Shaikh Khalifa Bin Ahmed Al Khalifa, Minister of Defense of the Kingdom of Bahrain.	Non-acceptance would cause embarrassment to donor and U.S. Government.
Captain Steven Kornatz, U.S. Navy, Director, Naval Command College, Naval War College.	Sapphire Crystal Tissot t-Touch Smart Man's analog watch, Silver chain link band with black and silver face, Presented in black and red box. Ser SKN–BC–38–325, Z 253/353P. Rec'd—10/25/2007. Est. Value—$550.00. Location—General Services Administration.	Colonel Yahya Buamin, United Arab Emirates Military.	Non-acceptance would cause embarrassment to donor and U.S. Government.
Admiral Michael G. Mullen, U.S. Navy, Chief of Naval Operations.	Red Tai-Hwa Potter Luster Color Ceramic Series vase approximately 10′ tall with gold leaf neck and painted gold butterflies on body. Presented in box with wood stand. Rec'd—9/19/2007. Est. Value—$335.00. Location—Pending transfer to General Services Administration.	Admiral Wang Li-Seng, Commander in Chief of the Chinese Navy.	Non-acceptance would cause embarrassment to donor and U.S. Government.
Admiral Vernon E. Clark, U.S. Navy, Chief of Naval Operations.	6 in. × 6 in. set of Carved and faux gem inlay Ivory Elephant book ends; each presented in a box covered with blue velvet cloth. Rec'd—10/11/2003. Est. Value—$1,000.00. Location—Pending transfer to General Services Administration.	Admiral and Mrs. Kaumundi Kumani, Indian Chief of Navy Staff.	Non-acceptance would cause embarrassment to donor and U.S. Government.

AGENCY: DEPARTMENT OF TREASURY

[Report of Tangible Gifts]

Name and title of person accepting the gift on behalf of the U.S. Government	Gift, date of acceptance on behalf of the U.S. Government, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
The Honorable Henry M. Paulson, Jr., Secretary of Treasury.	Replica of the 2008 Beijing Olympics Torch. Rec'd—4/2/2008. Est. Value—$500.00. Location—Treasury retained on June 22, 2008.	His Excellency Wang Qishan, Vice Premier of the People's Republic of China.	Non-acceptance would cause embarrassment to donor and U.S. Government.
The Honorable Henry M. Paulson, Jr., Secretary of Treasury.	Framed oil painting of a Saudi Arabian town. Rec'd—5/31/2008. Est. Value—$2,000.00. Location—Treasury retained on November 5, 2008.	His Excellency Ibrahim A. Al-Assaf, Minister of Finance of the Kingdom of Saudi Arabia.	Non-acceptance would cause embarrassment to donor and U.S. Government.

AGENCY: DEPARTMENT OF TREASURY—Continued

[Report of Tangible Gifts]

Name and title of person accepting the gift on behalf of the U.S. Government	Gift, date of acceptance on behalf of the U.S. Government, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
The Honorable Robert M. Kimmitt, Deputy Secretary.	Framed watercolor painting. Rec'd—5/31/2008. Est. Value—$2,000.00. Location—Treasury retained on November 5, 2008.	His Highness Mohammad bin Rashid al Maktoum, Vice President and Prime Minister of the United Arab Emirates and Ruler of Dubai.	Non-acceptance would cause embarrassment to donor and U.S. Government.
Laura Trimble, Associate Director of Budget Policy and Management, Office of Technical Assistance.	Zlatarna Celje pearl necklace+C24. Rec'd—4/24/2008. Est. Value—$709.00. Location—Treasury retained on August 12, 2008.	His Excellency Ivan Maricic, Treasurer of Finance of the Government of Serbia.	Non-acceptance would cause embarrassment to donor and U.S. Government.
Gail Ostler, Advisor, Office of Technical Assistance.	Zlatarna Celje pearl necklace. Rec'd—4/24/2008. Est. Value—$813.00. Location—Treasury retained on August 12, 2008.	His Excellency Ivan Maricic, Treasurer of Finance of the Government of Serbia.	Non-acceptance would cause embarrassment to donor and U.S. Government.
Nancy Lee, Deputy Assistant Secretary, Office of International Affairs.	Set of sterling silverware for 6 and 12″ silver platter. Rec'd—1/28/2003. Est. Value—$928.50. Location—Treasury retained on May 6, 2008.	His Excellency Rustam Asimov, Deputy Prime Minister of the Government of Uzbekistan.	Non-acceptance would cause embarrassment to donor and U.S. Government.

AGENCY: FEDERAL HOUSING FINANCE BOARD

[Report of Travel]

Name and title of person accepting the gift on behalf of the U.S. Government	Gift, date of acceptance on behalf of the U.S. Government, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
The Honorable Allan L. Mendelowitz, Member, Board of Directors.	Attended the annual meeting of the Asian Development Bank's board of directors in Madrid, Spain. Participated in a panel on the state of the world economy and financial markets. Bank paid for airfare outside the U.S., hotel, meals, and incidentals. Rec'd—5/1–5/2008. Est. Value—$5,500.	Asian Development Bank	Non-acceptance would cause embarrassment to donor and U.S. Government.

AGENCY: FEDERAL RESERVE BOARD

[Report of Tangible Gifts]

Name and title of person accepting the gift on behalf of the U.S. Government	Gift, date of acceptance on behalf of the U.S. Government, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
Ben S. Bernanke, Chairman	Four silver Beijing 2008 Olympic Series III Coins (one troy ounce each). Rec'd—4/23/2008. Est. Value—$499.00. Location—Chairman's Office for Official Use.	Hu Pingxi, Vice President, The People's Bank of China (Shanghai head office), People's Republic of China.	Non-acceptance would cause embarrassment to donor and U.S. Government.
Frederic S. Mishkin, Board member.	24 × 12 inch acrylic landscape painting by Barbara Kassab. Rec'd—6/11/2008. Est. Value—$400.00. Location—Board's Property Management Section for Official Use.	Sir K. Dwight Venner, Governor of the Eastern Caribbean Central Bank, St. Kitts, West Indies.	Non-acceptance would cause embarrassment to donor and U.S. Government.

AGENCY: RESEARCH AND INNOVATIVE TECHNOLOGY ADMINISTRATION/VOLPE NATIONAL TRANSPORTATION SYSTEMS CENTER

[Report of Travel]

Name and title of person accepting the gift on behalf of the U.S. Government	Gift, date of acceptance on behalf of the U.S. Government, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
Mr. Michael A. Rossetti, Statistician (Economics).	In-kind lodging expenses associated with participation in the International Conference on Safety and Mobility, Klagenfurt, Austria. Rec'd—7/9–11/2008. Est. Value—$582.00.	Austrian Federal Economic Chamber of Commerce.	Non-acceptance would cause embarrassment to donor and U.S. Government.
Mr. Thomas A. Seliga, Electronics Engineer.	In-kind lodging expenses associated with participation in the International Conference on Safety and Mobility, Klagenfurt, Austria. Rec'd—7/9–11/2008. Est. Value—$582.00.	Austrian Federal Economic Chamber of Commerce.	Non-acceptance would cause embarrassment to donor and U.S. Government.

AGENCY: U.S. HOUSE OF REPRESENTATIVES

[Report of Tangible Gifts]

Name and title of person accepting the gift on behalf of the U.S. Government	Gift, date of acceptance on behalf of the U.S. Government, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
The Honorable Nancy Pelosi, Speaker of the House.	Handmade wool rug, approximately 5′ by 8′, cream ground with red center medallion. Rec'd—8/5/2008. Est. Value—$585.00. Location—Office of the Clerk.	His Excellency Syed Yousaf Raza Gillani, Prime Minister of the Islamic Republic of Pakistan.	Non-acceptance would cause embarrassment to donor and U.S. Government.

AGENCY: U.S. HOUSE OF REPRESENTATIVES

[Report of Travel]

Name and title of person accepting the gift on behalf of the U.S. Government	Gift, date of acceptance on behalf of the U.S. Government, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
The Honorable Marion Berry, Member of Congress.	Round trip air trip—Cuiaba to/from Sapezal, Brazil (No commercial air available); one night lodging in Sapezal (No commercial lodging available) comparable lodging in Cuiaba. Rec'd—9/2–3/2008. Est. Value—$697.00.	His Excellency Blairo Borges Maggi, Governor of Mato Grosso, Brazil.	Non-acceptance would cause embarrassment to donor and U.S. Government.
Scott Boule, Senior Appropriations Advisor.	Lodging in Brussels for five nights. Rec'd—5/26–31/2008. Est. Value—$1,200.60.	Mr. William Burros, Senior Advisor, Political & Development Section, Delegation of the European Commission.	Non-acceptance would cause embarrassment to donor and U.S. Government.
Wynn J. Bott, Financial Administrator for House Committee on Agriculture.	Round trip air trip—Cuiaba to/from Sapezal, Brazil (No commercial air available); one night lodging in Sapezal (No commercial lodging available) comparable lodging in Cuiaba. Rec'd—9/2–3/2008. Est. Value—$697.00.	His Excellency Blairo Borges Maggi, Governor of Mato Grosso, Brazil.	Non-acceptance would cause embarrassment to donor and U.S. Government.
Aaron Davis, Senior Legislative Assistant to Representative Christopher Carney.	Lodging in Brussels for five nights. Rec'd—5/26–31/2008. Est. Value—$1,166.15.	Mr. William Burros, Senior Advisor, Political & Development Section, Delegation of the European Commission.	Non-acceptance would cause embarrassment to donor and U.S. Government.

AGENCY: U.S. HOUSE OF REPRESENTATIVES—Continued

[Report of Travel]

Name and title of person accepting the gift on behalf of the U.S. Government	Gift, date of acceptance on behalf of the U.S. Government, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
Eric Fatla, Executive Assistant to Representative Jerry Weller.	Round trip air trip—Cuiaba to/from Sapezal, Brazil (No commercial air available); one night lodging in Sapezal (No commercial lodging available) comparable lodging in Cuiaba. Rec'd—9/2–3/2008. Est. Value—$697.00.	His Excellency Blairo Borges Maggi, Governor of Mato Grosso, Brazil.	Non-acceptance would cause embarrassment to donor and U.S. Government.
James P. Frank, District Director to Representative Bill Shuster.	Lodging in Brussels for five nights. Rec'd—5/26–31/2008. Est. Value—$1,200.60.	Mr. William Burros, Senior Advisor, Political & Development Section, Delegation of the European Commission.	Non-acceptance would cause embarrassment to donor and U.S. Government.
Emalee B. Griffin, Executive Assistant to Representative Ben Chandler.	Round trip air trip—Cuiaba to/from Sapezal, Brazil (No commercial air available); one night lodging in Sapezal (No commercial lodging available) comparable lodging in Cuiaba. Rec'd—9/2–3/2008. Est. Value—$697.00.	His Excellency Blairo Borges Maggi, Governor of Mato Grosso, Brazil.	Non-acceptance would cause embarrassment to donor and U.S. Government.
Randall Jennings, Legislative Assistant to Representative Gene Taylor.	Five nights lodging in Brussels. Rec'd—5/26–31/2008. Est. Value—$1,200.60.	Mr. William Burros, Senior Advisor, Political & Development Section, Delegation of the European Commission.	Non-acceptance would cause embarrassment to donor and U.S. Government.

AGENCY: UNITED STATES SENATE

[Report of Tangible Gifts]

Name and title of person accepting the gift on behalf of the U.S. Government	Gift, date of acceptance on behalf of the U.S. Government, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
The Honorable Harry Reid, United States Senator.	Assorted Jordanian coins in wooden display case with clear plastic top. Rec'd—3/7/2008. Est. Value—$350.00. Location—Displayed in Leadership Office, S–221 Capitol.	His Majesty Abdullah II bin al Hussein, King of the Hashemite Kingdom of Jordan.	Non-acceptance would cause embarrassment to donor and U.S. Government.
The Honorable Lindsey Graham, United States Senator.	Nivada Watch. Rec'd—3/16/2008. Est. Value—$595.00. Location—Deposited with Secretary of Senate.	Speaker Dr. Mahmood D. Almashhadani of the Republic of Iraq.	Non-acceptance would cause embarrassment to donor and U.S. Government.
The Honorable John McCain, United States Senate.	Men's Nivada Brushed Goldtone Watch. Rec'd—3/16/2008. Est. Value—$595.00. Location—Deposited with Secretary of Senate.	Speaker Dr. Mahmood D. Almashhadani of the Republic of Iraq.	Non-acceptance would cause embarrassment to donor and U.S. Government.
The Honorable Joseph Lieberman, United States Senator.	Nivada brushed goldtone stainless steel woven watch with polished accent. Rec'd—5/14/2008. Est. Value—$595.00. Location—Deposited with Secretary of Senate.	Speaker Dr. Mahmood D. Almashhadani of the Republic of Iraq.	Non-acceptance would cause embarrassment to donor and U.S. Government.
The Honorable Jack Reed, United States Senator.	Red and Black Woven Small Area Rug. Rec'd—7/19/2008. Est. Value—$400.00. Location—Displayed in Senate Office, 728 Hart.	His Excellency Governor Gul Aqa Shirzai of the Transitional Islamic State of Afghanistan.	Non-acceptance would cause embarrassment to donor and U.S. Government.
The Honorable Jack Reed, United States Senator.	Multicolored Large Area Rug, Handcrafted. Rec'd—7/20/2008. Est. Value—$1,500.00. Location—Displayed in Senate Office, 728 Hart.	His Excellency Hamid Karzai, President of the Transitional Islamic State of Afghanistan.	Non-acceptance would cause embarrassment to donor and U.S. Government.

AGENCY: UNITED STATES SENATE—Continued

[Report of Tangible Gifts]

Name and title of person accepting the gift on behalf of the U.S. Government	Gift, date of acceptance on behalf of the U.S. Government, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
The Honorable Barack Obama, United States Senator.	(1) Red and Black Woven Rug with White Tassels ($200); (2) Tan Woven Rug with Tribal Designs and White Tassels ($200); (3) Royal and Blue Lapis Lazuli Vase with White and Red Flower Design ($200); (4) Silver Palm Tree with Intricate Design on Base, Trunk and Leaves ($200); (5) Statue of Jesus Holding Staff with Gold Medallion ($60). Rec'd—7/1/2008. Est. Value—$860.00. Location—Deposited with Secretary of Senate.	His Excellency Hamid Karzai, President of the Transitional Islamic State of Afghanistan.	Non-acceptance would cause embarrassment to donor and U.S. Government.
The Honorable John McCain, United States Senator.	Rug Rec'd—10/10/2008. Est. Value—$500.00. Location—Displayed in Senate Office, 238 Russell.	His Excellency(?) Mohammedmian Soomro, Chairman of Senate of the Islamic Republic of Pakistan.	Non-acceptance would cause embarrassment to donor and U.S. Government.
The Honorable Harry Reid, United States Senator.	Book and Signed Painting by Mamah Mamahiz. Rec'd—11/20/2008. Est. Value—$2,000.00. Location—Displayed in Leadership Office, S–221 Capitol.	His Excellency Juan Evo Morales, President of the Republic of Bolivia.	Non-acceptance would cause embarrassment to donor and U.S. Government.
The Honorable Harry Reid, United States Senator.	Book and Signed Painting by Mamah Mamahiz. Rec'd—11/20/2008. Est. Value—$2,000.00. Location—Displayed in Leadership Office, S–221 Capitol.	His Excellency Juan Evo Morales, President of the Republic of Bolivia.	Non-acceptance would cause embarrassment to donor and U.S. Government.

AGENCY: UNITED STATES SENATE

[Report of Travel]

Name and title of person accepting the gift on behalf of the U.S. Government	Gift, date of acceptance on behalf of the U.S. Government, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
The Honorable Johnny Isakson, United States Senator.	Transportation within Equatorial Guinea via government aircraft and government vehicles. Rec'd—1/7/2008. Est. Value—Unknown.	Government of Equatorial Guinea	Non-acceptance would cause embarrassment to donor and U.S. Government.
Catherine Henson, Legislative Assistant to Senator Johnny Isakson.	Transportation within Equatorial Guinea via government aircraft and government vehicles. Rec'd—1/7/2008. Est. Value—Unknown.	Government of Equatorial Guinea	Non-acceptance would cause embarrassment to donor and U.S. Government.
The Honorable Evan Bayh, United States Senator.	Lodging and meals in Doha, Qatar. Rec'd—2/17–18/2008. Est. Value—Unknown.	Ministry of Foreign Affairs, Qatar	Non-acceptance would cause embarrassment to donor and U.S. Government.
The Honorable Evan Bayh, United States Senator.	Lodging and meals in Riyadh, Saudi Arabia. Rec'd—2/19–20/2008. Est. Value—Unknown.	Royal Palace, Saudi Arabia	Non-acceptance would cause embarrassment to donor and U.S. Government.
The Honorable Evan Bayh, United States Senator.	Meals in Abu Dhabi, United Arab Emirates. Rec'd—2/20–21/2008. Est. Value—Unknown.	Office of the Crown Prince, Abu Dhabi.	Non-acceptance would cause embarrassment to donor and U.S. Government.
Todd Rosenblum, Professional Staff Member and Liaison to Senator Bayh, Intelligence Committee.	Lodging and meals in Doha, Qatar. Rec'd—2/17–18/2008. Est. Value—Unknown.	Ministry of Foreign Affairs, Qatar	Non-acceptance would cause embarrassment to donor and U.S. Government.

AGENCY: UNITED STATES SENATE—Continued

[Report of Travel]

Name and title of person accepting the gift on behalf of the U.S. Government	Gift, date of acceptance on behalf of the U.S. Government, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
Todd Rosenblum, Professional Staff Member and Liaison to Senator Bayh, Intelligence Committee.	Lodging and meals in Riyadh, Saudi Arabia. Rec'd—2/19–20/2008. Est. Value—Unknown.	Royal Palace, Saudi Arabia	Non-acceptance would cause embarrassment to donor and U.S. Government.
Todd Rosenblum, Professional Staff Member and Liaison to Senator Bayh, Intelligence Committee.	Meals in Abu Dhabi, United Arab Emirates. Rec'd—2/20–21/2008. Est. Value—Unknown.	Office of the Crown Prince, Abu Dhabi.	Non-acceptance would cause embarrassment to donor and U.S. Government.
Puneet Talwar, Senior Professional Staff Member, Foreign Relations Committee.	Transportation within Saudi Arabia via government aircraft, including lodging and meals. Rec'd—2/16–20/2008. Est. Value—Unknown.	Government of Saudi Arabia	Non-acceptance would cause embarrassment to donor and U.S. Government.
Michael Zehr, Legislative Director to Senator Mel Martinez.	Lodging in Brussels, Belgium. Rec'd—5/25–31/2008. Est. Value—Unknown.	European Commission	Non-acceptance would cause embarrassment to donor and U.S. Government.
Stacie Oliver, Legislative Assistant to Senator Bob Corker.	Lodging in Brussels, Belgium. Rec'd—5/26–31/2008. Est. Value—Unknown.	European Union	Non-acceptance would cause embarrassment to donor and U.S. Government.
Garrett Eucalitto, Legislative Aide to Senator Joseph Lieberman.	Lodging within Brussels, Belgium. Rec'd—5/25–30/2008. Est. Value—Unknown.	The European Commission	Non-acceptance would cause embarrassment to donor and U.S. Government.
Paul Kong, Legislative Director to Senator Chuck Hagel.	Accommodations in Brussels, Belgium. Rec'd—5/26–31/2008. Est. Value—Unknown.	European Commission	Non-acceptance would cause embarrassment to donor and U.S. Government.
Paul Kong, Legislative Director to Senator Chuck Hagel.	Accommodations in Brussels, Belgium. Rec'd—5/26–31/2008. Est. Value—Unknown.	European Commission	Non-acceptance would cause embarrassment to donor and U.S. Government.

AGENCY: U.S. AGENCY FOR INTERNATIONAL DEVELOPMENT

[Report of Travel]

Name and title of person accepting the gift on behalf of the U.S. Government	Gift, date of acceptance on behalf of the U.S. Government, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
Erna Kerst, Director, USAID/Kenya	Passage on a chartered UN flight to Nairobi, Kenya to Samburu, Kenya to accompany an official delegation including other high-level donor country representatives. Rec'd—6/4/2008. Est. Value—$1,937.50.	United Nations World Food Program (WFP), Kenya.	Non-acceptance would cause embarrassment to donor and U.S. Government
Tesfaye Kelemework, Deputy Chief, USAID/Addis/BES, Ethiopia mission.	Expenses for air ticket (Addis Ababa to Paris to Addis Abada, via lodging and MIE for participating experts' meeting (July 1 and 2) on ''Capacity Develpoment in Educational Panning and Management for Achieving EFA: Learning for Successes and Failures'' and in a Symposium (July 3 and 4) on ''Direction in Educational Planning''. Rec'd—7/1–4/2008. Est. Value—$4,336.17.	International Institute for Educational Planning (IIEP) of UNESCO, Paris, France.	Non-acceptance would cause embarrassment to donor and U.S. Government.

[FR Doc. E9–15022 Filed 6–24–09; 8:45 am]

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Federal Register

Thursday,
June 25, 2009

Part V

The President

Notice of June 24, 2009—Continuation of the National Emergency With Respect to North Korea

Federal Register
Vol. 74, No. 121
Thursday, June 25, 2009

Presidential Documents

Title 3—

The President

Notice of June 24, 2009

Continuation of the National Emergency With Respect to North Korea

On June 26, 2008, by Executive Order 13466, the President declared a national emergency pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701–1706) to deal with the unusual and extraordinary threat to the national security and foreign policy of the United States constituted by the current existence and risk of the proliferation of weapons-usable fissile material on the Korean Peninsula. The President also found that it was necessary to maintain certain restrictions with respect to North Korea that would otherwise have been lifted pursuant to Proclamation 8271 of June 26, 2008, which terminated the exercise of authorities under the Trading With the Enemy Act (50 U.S.C. App. 1–44) with respect to North Korea.

Because the existence and risk of the proliferation of weapons-usable fissile material on the Korean Peninsula continue to pose an unusual and extraordinary threat to the national security and foreign policy of the United States, the national emergency declared on June 26, 2008, and the measures adopted on that date to deal with that emergency, must continue in effect beyond June 26, 2009. Therefore, in accordance with section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)), I am continuing for 1 year the national emergency declared in Executive Order 13466.

This notice shall be published in the *Federal Register* and transmitted to the Congress.

THE WHITE HOUSE,
June 24, 2009.

[FR Doc. E9–15270
Filed 6–24–09; 11:15 am]
Billing code 3195–W9–P

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Federal Register

Vol. 74, No. 121

Thursday, June 25, 2009

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The text of laws is not published in the **Federal Register** but may be ordered in ''slip law'' (individual pamphlet) form from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202–512–1808). The text will also be made available on the Internet from GPO Access at *http://www.gpoaccess.gov/plaws/index.html*. Some laws may not yet be available.

H.R. 1256/P.L. 111–31
To protect the public health by providing the Food and Drug Administration with certain authority to regulate tobacco products, to amend title 5, United States Code, to make certain modifications in the Thrift Savings Plan, the Civil Service Retirement System, and the Federal Employees' Retirement System, and for other purposes. (June 22, 2009; 123 Stat. 1776)

Last List June 23, 2009

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