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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, September 15, 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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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.

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

29 CFR Part 1612

Government in the Sunshine Act Regulations

AGENCY: Equal Employment Opportunity Commission.

ACTION: Final rule.

SUMMARY: The Equal Employment Opportunity Commission is revising the method of public announcement of agency meetings subject to the Government in the Sunshine Act.

DATES: *Effective Date:* September 21, 2009.

FOR FURTHER INFORMATION CONTACT: Thomas J. Schlageter, Assistant Legal Counsel, or Kathleen Oram, Senior Attorney, at (202) 663-4640 (voice) or (202) 663-7026 (TTY). Copies of this final rule are also available in the following alternate formats: large print, braille, audiotape and electronic file on computer disk. Requests for this final rule in an alternative format should be made to EEOC's Publication Center at 1-800-669-3362 (voice) or 1-800-800-3302 (TTY).

SUPPLEMENTARY INFORMATION: Under the Government in the Sunshine Act, 5 U.S.C. 552b, the EEOC is required to give public announcement of Commission meetings. The Commission's Sunshine Act regulations specify that such announcements will be made by recorded telephone message and posting in the lobby of its headquarters. In November and December 2008, the Commission's headquarters moved from 1801 L Street, NW., Washington, DC 20507 to 131 M Street, NE., Washington, DC 20507. Because the new location is a multi-tenant building and the landlord prohibits the posting of tenant announcements in the lobby, the Commission proposed in an NPRM

published at 74 FR 7843 (Feb. 20, 2009) to post announcements of public meetings on the agency's public Web site instead of posting them in the lobby. The Commission received one comment on its proposal, suggesting that EEOC create a mechanism for the public to sign up to receive e-mail and text message notice by subscription. While the Sunshine Act does not require public notice by e-mail or text message or similar individualized notice, the Commission agrees that such notice would be optimal for its stakeholders, and will consider adopting such a system in the future. For now, the final rule provides for public announcement of Commission meetings by recorded telephone message and posting on the EEOC's Web site instead of by recorded telephone message and posting in the EEOC's lobby.

Regulatory Procedures

Executive Order 12866

This is not a "significant regulatory action" within the meaning of section 3 of Executive Order 12866.

Paperwork Reduction Act

This regulation contains no new information collection requirements subject to review by the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. chapter 35).

Regulatory Flexibility Act

The Commission 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 because the rule does not have any economic impact. The regulation affects only the means by which the EEOC will issue public notices of its meetings. Thus, a regulatory flexibility analysis is not required.

Unfunded Mandates Reform Act of 1995

This final rule will not result in the expenditure by State, local, or tribal governments, in the aggregate, or by the private sector, of \$100 million or more in any one year, and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

Congressional Review Act

This action concerns agency organization, procedure or practice that does not substantially affect the rights or obligations of non-agency parties and, accordingly, is not a "rule" as that term is used by the Congressional Review Act (Subtitle E of the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA)). Therefore, the reporting requirement of 5 U.S.C. 801 does not apply.

List of Subjects in 29 CFR Part 1612

Government in the Sunshine Act, Equal Employment Opportunity.

For the Commission,

Stuart J. Ishimaru,

Acting Chairman.

Accordingly, the Equal Employment Opportunity Commission amends 29 CFR Part 1612 as follows:

PART 1612—GOVERNMENT IN THE SUNSHINE ACT REGULATIONS

1. The authority citation for Part 1612 continues to read as follows:

Authority: 5 U.S.C. 552b, sec 713, 78 Stat. 265; 42 U.S.C. 2000e-12.

2. In § 1612.7, revise paragraph (a) to read as follows:

§ 1612.7 Public announcement of agency meetings.

(a) Public announcement of each meeting by the agency shall be accomplished by recorded telephone message at telephone number 202-663-7100, and by posting such announcements on the Commission's public Web site located at <http://www.eeoc.gov> not later than one week prior to commencement of a meeting or the commencement of the first meeting in a series of meetings, except as otherwise provided in this section, and shall disclose:

- (1) The time of the meeting.
- (2) The place of the meeting.
- (3) The subject matter of each portion of the meeting or series of meetings.
- (4) Whether any portion(s) of a meeting will be open or closed to public observation.
- (5) The name and telephone number of an official designated to respond to requests for information about the meeting.

* * * * *

[FR Doc. E9-20010 Filed 8-19-09; 8:45 am]

BILLING CODE 6570-01-P

DEPARTMENT OF HOMELAND SECURITY**Coast Guard****33 CFR Part 165****[Docket No. USCG-2009-0331]****RIN 1625-AA00****Security and Safety Zone; Cruise Ship Protection, Elliott Bay and Pier-91, Seattle, WA****AGENCY:** Coast Guard, DHS.**ACTION:** Interim rule with request for comments.

SUMMARY: The Coast Guard is establishing a security and safety zone in the waters of Elliot Bay. Due to the physical location of Pier 91, Large Passenger Cruise Vessels are required to maneuver near a prominent marina frequented by a large recreational vessel community and near other numerous large commercial fishing vessels located at adjacent piers, posing a high safety and security risk when Large Passenger Cruise Vessels are entering and departing the cruise terminal. Due to the inherent safety and security risks associated with the movement of a cruise ship into or out of this especially tight berth at Pier 91, coupled with the large recreational boating community and commercial traffic in the area, the Coast Guard Captain of the Port Puget Sound finds it necessary to enact these safety and security zones.

DATES: This interim rule is effective starting August 20, 2009. Comments and related material must reach the Coast Guard on or before October 5, 2009.

ADDRESSES: You may submit comments identified by docket number USCG-2009-0331 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 LT Steven Stowers, Sector Seattle, Waterways Management Division, Coast Guard; telephone 206-217-6045, e-mail

Steven.D.Stowers@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-2009-0331), 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 deliver, 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 deliver, 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>, click on the "submit a comment" box, which will then become highlighted in blue. In the "Document Type" drop-down menu select "Proposed Rule" and insert "USCG-2009-0331" in the "Keyword" box. Click "Search" 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>, click on the "read comments" box, which will then become highlighted in blue. In the "Keyword" box insert "USCG-2009-0331" and click "Search." Click the "Open Docket Folder" in the "Actions" 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 on or before October 5, 2009 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 rule would not be in effect in time for the upcoming cruise ship season, posing high safety and security risks to Large

Passenger Cruise Vessels, causing safety and security vulnerabilities while moored and also when maneuvering into and out of the cruise terminal.

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 absence of safety and security zones for this area allows for vessels to congregate in the path of transiting Large Passenger Cruise Vessels, there in, restricting the maneuverability of such large vessels and posing a significant safety risk. Additionally, without the establishment of these zones, vessels would be able to transit in close proximity to moored Large Passenger Cruise Vessels thereby posing a security threat to those vessels.

Background and Purpose

The Coast Guard is establishing these safety and security zones to ensure adequate measures are in place for the safety and security of Large Passenger Cruise Vessels. The Coast Guard conducted a safety and security risk assessment of the Cruise Terminal at Pier 91 (at 47°37.58' N/122°23.0' W), Seattle, Washington, and the surrounding waterways. As a result of this assessment, the Coast Guard Captain of the Port Puget Sound found sufficient cause to require these safety and security zones to protect Large Passenger Cruise Vessels as well as the boating public. These zones are necessary to ensure the safety and security of not only moored Large Passenger Cruise Vessels, but also for Large Passenger Cruise Vessels that are in transit while entering or departing the Pier 91 cruise terminal at the Port of Seattle. Due to the physical location of Pier 91, Large Passenger Cruise Vessels are required to maneuver near a prominent marina and other numerous large fishing vessels located at adjacent piers when entering and departing the cruise terminal. These zones will be enforced during the arrival and departure of Large Passenger Cruise Vessels and during the presence of moored Large Passenger Cruise Vessels at Pier 91, Seattle, Washington.

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. This rule will be enforced to enhance the Security and Safety Zone for the protection of large passenger vessels under 33 CFR 165.1317.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this rule would have a significant economic impact on a substantial number of small entities. The term “small entities” comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. The 100 yard security and safety zone around Pier 91 when Large Passenger Cruise Vessels are present, allows a large enough area for pleasure craft to transit the area unhindered. Additionally, the security and safety zone that is in place during the arrival and departure of Large Passenger Cruise Vessels in and out of Pier 91 is short in duration, such that, it should not adversely affect other vessel traffic in the area.

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 0023.1 and Commandant Instruction M16475.ID, 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)(g), 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 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

■ 2. A new § 165.1324 is added to read as follows:

§ 165.1324 Safety and Security Zone; Cruise Ship Protection, Elliott Bay and Pier-91, Seattle, Washington.

(a) *Safety and Security Zones.* (1) The following area is a safety and security zone: All waters within the following points: a rectangle, starting at 47°37'53" N/122°23'07" W, thence south to position 47°37'06" N/122°23'07" W, thence east to position 47°37'06" N/122°22'43" W, thence north to position 47°37'58" N/122°22'43" W. This zone will be enforced only during the arrival or departure of Large Passenger Cruise Vessels at Pier 91, Seattle, Washington.

(2) The following area is a safety and security zone: All waters within 100 yards of Pier 91, Seattle, Washington, at approximate position 47°37'35" N/122°23'00" W. This zone will be enforced only when a Large Passenger Cruise Vessel is moored at Pier 91.

(b) *Regulations.* In accordance with the general regulations in 33 CFR Part 165, Subpart D, no person or vessel may enter or remain in either Safety and Security Zone except for vessels authorized by the Captain of the Port or Designated Representatives.

(c) *Definitions.* The following definitions apply to this section:

Facility Security Officer means the person designated as responsible for the development, implementation, revision and maintenance of the facility security plan and for liaison with the COTP and Company and Vessel Security Officers.

Large Passenger Cruise Vessel means any cruise ship over 100 feet in length carrying passengers for hire. Large Passenger Cruise Vessel does not include vessels inspected and certificated under 46 CFR, Chapter I, Subchapter T such as excursion vessels,

sight seeing vessels, dinner cruise vessels, and whale watching vessels.

Official Patrol means those persons designated by the Captain of the Port to monitor a Large Passenger Cruise Vessel security and safety zone, permit entry into the zone, give legally enforceable orders to persons or vessels within the zone and take other actions authorized by the Captain of the Port. Persons authorized in paragraph (e) to enforce this section are designated as the Official Patrol.

(d) *Authorization.* To request authorization to operate within 100 yards of a Large Passenger Cruise Vessel that is moored at Pier 91, contact the on-scene Official Patrol on VHF–FM channel 16 or 13 or the Facility Security Officer at (206) 728–3688.

(e) *Enforcement.* Any Coast Guard commissioned, warrant or petty officer may enforce the rules in this section. In the navigable waters of the United States to which this section applies, when immediate action is required and representatives of the Coast Guard are not present or not present in sufficient force to provide effective enforcement of this section in the vicinity of a Large Passenger Cruise Vessel, any Federal or Washington Law Enforcement Officer may enforce the rules contained in this section pursuant to 33 CFR 6.04–11. In addition, the Captain of the Port may be assisted by other Federal, state or local agencies in enforcing this section.

(f) *Waiver.* The Captain of the Port Puget Sound may waive any of the requirements of this section for any vessel or class of vessels upon finding that a vessel or class of vessels, operational conditions or other circumstances are such that application of this section is unnecessary or impractical for the purpose of port security, safety or environmental safety.

Dated: April 24, 2009.

Suzanne E. Englebert,

Captain, U.S. Coast Guard Captain of the Port, Puget Sound.

[FR Doc. E9–19958 Filed 8–19–09; 8:45 am]

BILLING CODE 4910–15–P

PRESIDIO TRUST

36 CFR Part 1012

RIN 3212–AA–04

Legal Process: Testimony by Employees and Production of Records

AGENCY: Presidio Trust.

ACTION: Final rule.

SUMMARY: The Presidio Trust is publishing as a final rule a regulation,

limited to the Presidio Trust's organization and management, governing access to Presidio Trust information and records in connection with legal proceedings in which neither the United States nor the Presidio Trust is a party. This final rule establishes guidelines for use in determining whether Presidio Trust employees (as defined in the final rule) will provide testimony or records relating to their official duties. It also establishes procedures for requesters to follow when making demands on or requests to a Presidio Trust employee for official documents or to provide testimony. This final rule standardizes the Presidio Trust's practices, promotes uniformity in decisions, conserves the ability of the Presidio Trust to conduct official business, preserves its employee resources, protects confidential information, provides guidance to requestors, minimizes involvement in matters unrelated to the Presidio Trust's mission and programs, avoids wasteful allocation of agency resources and avoids spending public time and money for private purpose.

DATES: The effective date of the regulation is September 25, 2009.

FOR FURTHER INFORMATION CONTACT: Karen A. Cook, General Counsel, Presidio Trust, 34 Graham Street, P.O. Box 29052, San Francisco, CA 94129-0052. Telephone: 415.561.5300.

SUPPLEMENTARY INFORMATION:

The Presidio Trust, a wholly-owned federal government corporation, on occasion receives subpoenas and other requests for documents and requests for Presidio Trust employees (as defined in the final rule) to provide testimony or evidence in judicial, legislative or administrative proceedings in which the Presidio Trust is not a party. Sometimes these subpoenas or requests are for Presidio Trust records that are exempt from disclosure under the Freedom of Information Act. The Presidio Trust also receives requests for Presidio Trust employees to appear as witnesses and to provide testimony relating to materials contained in the Presidio Trust's official records or to provide testimony or information acquired during the performance of the employees' official duties.

Although many other federal agencies currently have regulations in place to address these types of requests and the Presidio Trust itself has rules governing requests for information under the Freedom of Information Act, the Presidio Trust has not previously adopted regulations governing subpoenas and other information requests for document production and

testimony of Presidio Trust employees in judicial, legislative or administrative proceedings in which the Presidio Trust is not a party. Issues about such requests that have arisen in recent years warrant adoption of regulations governing their submission, evaluation and processing. Responding to these requests is not only burdensome, but may also result in a significant disruption of a Presidio Trust employee's work schedule, may involve the Presidio Trust in issues unrelated to its responsibilities and may impede the Presidio Trust's accomplishment of its budgetary goals. In order to resolve these issues, many agencies have issued regulations, similar to this regulation, governing the circumstances and manner for responding to demands for testimony or for the production of documents. Establishing uniform procedures for submission, evaluation and response to such demands will ensure timely notice and will promote centralized decision making. The United States Supreme Court upheld this type of regulation in *United States ex rel. Touhy v. Ragen*, 340 U.S. 462 (1951).

Briefly summarized, the final rule prohibits disclosure of official records or testimony by the Presidio Trust's employees unless there is compliance with the rule. The final rule sets out the information that requesters must provide and the factors that the Presidio Trust will consider in making determinations in response to requests for testimony or the production of documents.

This final rule ensures a more efficient use of the Presidio Trust's resources, minimizes the possibility of involving the Presidio Trust in issues unrelated to its mission or responsibilities, promotes uniformity in responding to such subpoenas and similar requests, and maintains the impartiality of the Presidio Trust in matters that are in dispute between other parties. It also serves the Presidio Trust's interest in protecting sensitive, confidential and privileged information and records that are generated in fulfillment of the Presidio Trust's responsibilities.

The final rule is internal and procedural rather than substantive. It does not create a right to obtain official records or the official testimony of a Presidio Trust employee; nor does it create any additional right or privilege not already available to the Presidio Trust to deny any demand or request for testimony or documents. Failure to comply with the procedures set out in these regulations would be a basis for denying a demand or request submitted to the Presidio Trust.

This rulemaking is in compliance with the Administrative Procedure Act (5 U.S.C. 553) and follows a 30-day comment period. During this period the Presidio Trust received and considered one comment. This comment proposed that the scope of the regulation in Section 1012.1 be amended to exempt suits in which Presidio Trust board members are sued in their official capacity. The commenter believed that some such suits would not qualify for treatment under these regulations pursuant to *United States ex rel. Touhy v. Ragen*, 340 U.S. 462 (1951) and that the determination of whether the Presidio Trust has a direct and substantial interest in such suits against Presidio Trust board members should not be made by the Presidio Trust. The Presidio Trust considered this comment and believes that because the applicability of these regulations in any particular proceeding or circumstance is subject to judicial review, there is adequate assurance that the requirements set by the *Touhy* decision or other applicable law will be applied. The Presidio Trust will continue to review these regulations in the future, and if it becomes apparent that they should be modified based on changes in the law or experience with their implementation, then the Presidio Trust will do so through the rulemaking process.

Executive Order 12866—Regulatory Planning and Review

This final rule, because it is limited to the Presidio Trust's organization and management, does not fall within the definition of a "Rule" under Executive Order 12866 issued September 30, 1993 on Regulatory Planning and Review. Moreover, this final rule will not have an annual effect of \$100 million or more on the economy nor adversely affect productivity, competition, jobs, the environment, public health or safety, nor State or local governments. This final rule will neither interfere with an action taken or planned by another agency nor raise new legal or policy issues. This final rule will not alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients of such programs. Therefore, it has been determined that this is not an economically significant rule.

Executive Order 12988—Civil Justice Reform

This final rule has been drafted and reviewed in accordance with Executive Order 12988, Civil Justice Reform, and will not unduly burden the Federal court system. This final rule has been

written so as to minimize litigation and provide a clear legal standard for affected conduct, and has been reviewed carefully to eliminate drafting errors and ambiguities. Additionally, the Presidio Trust has not identified any State or local laws or regulations that are in conflict with this regulation or that would impede full implementation of this final rule. Nonetheless, in the event that such a conflict was to be identified, the final rule would preempt State or local laws or regulations found to be in conflict. However, in that case, (1) no retroactive effect would be given to this final rule; and (2) the final rule does not require the use of administration proceedings before parties may file suit in court challenging its provisions.

Executive Order 13132—Federalism

This final rule conforms with the Federalism principles set out in Executive Order 13132 and would not impose any compliance costs on the States; and would 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. Therefore, it has been determined that this final rule does not have federalism implications.

Unfunded Mandates

Pursuant to Title II of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) as well as Executive Order 12875, the Presidio Trust has assessed the effects of this final rule on State, local, and Tribal governments and the private sector. This final rule does not compel the expenditure of \$100 million or more in any one year by any State, local, or Tribal governments or anyone in the private sector. Therefore, a statement under section 202 of the Act is not required.

Executive Order 13175—Consultation With Indian Tribal Governments

Pursuant to Executive Order 13175 of November 6, 2000, the Presidio Trust has assessed the impact of this final rule on Indian Tribal governments and has determined that the final rule does not significantly or uniquely affect communities of Indian Tribal governments. The Presidio Trust has also determined that this final rule does not impose substantial direct compliance costs or Tribal implications on Indian tribal governments, and therefore advance consultation with Tribes is not required.

Regulatory Flexibility Act and Executive Order 13272—Consideration of Small Entities

This final rule has been considered in light of the Regulatory Flexibility Act (5 U.S.C. 602 *et seq.*) and Executive Order 13272 of August 13, 2002. This final rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act and Executive Order 13272, because the final rule will not impose recordkeeping requirements on them; it will not affect their competitive position in relation to large entities; and it will not affect their cash flow, liquidity or ability to remain in the market.

Certification

The Presidio Trust certifies that this final rule is not expected to have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act or Executive Order 13272.

Congressional Review Act

The Congressional Review Act (5 U.S.C. 801 *et seq.*), as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. Because this final rule is a rule of agency organization, procedure or practice that does not substantially affect the rights or obligations of non-agency parties it is not a “Rule” as defined by the Congressional Review Act (5 U.S.C. 804(3)(C)) and is not subject to it.

Executive Order 13211—Energy Effects

This final rule is not a “significant energy action” as defined in Executive Order 13211 of May 22, 2001, because it is not likely to have a significant adverse affect on the supply, distribution or use of energy. The Presidio Trust has determined that this final rule is not likely to have any adverse energy effects.

The Paperwork Reduction Act of 1995

This final rule contains no paperwork burdens or information collection requirements that are subject to review by the Office of Management and Budget under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

Analysis of Environmental Impact

The Presidio Trust has analyzed this final rule in accordance with the criteria of the National Environmental Policy

Act of 1969 and determined that the rule does not constitute a major Federal action significantly affecting the quality of the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

Government Paperwork Elimination Act

The Presidio Trust is committed to compliance with the Government Paperwork Elimination Act (GPEA), which requires Government agencies to provide the public the option of submitting information or transacting business electronically to the maximum extent possible. This final rule contains no paperwork burdens or information collection requirements, and is thus in compliance with the GPEA.

Executive Order 12630—No Takings Implication

This final rule has been analyzed in accordance with the principles of and criteria contained in Executive Order 12630 issued March 15, 1988, and it has been determined that the final rule does not pose a risk of a taking of constitutionally protected private property.

- For the reasons set forth in the preamble, the Presidio Trust amends chapter X of title 36 of the Code of Federal Regulations as follows:
- A new part 1012, consisting of § 1012.1 through § 1012.11, is added to chapter X to read as follows:

PART 1012—LEGAL PROCESS: TESTIMONY BY EMPLOYEES AND PRODUCTION OF RECORDS

General Information

Sec.

- 1012.1 What does this part cover?
- 1012.2 What is the Presidio Trust's policy on granting requests for employee testimony or Presidio Trust records?

Responsibilities of Requesters

- 1012.3 How can I obtain employee testimony or Presidio Trust records?
- 1012.4 If I serve a subpoena duces tecum, must I also submit a *Touhy* Request?
- 1012.5 What information must I put in my *Touhy* Request?
- 1012.6 How much will I be charged?
- 1012.7 Can I get an authenticated copy of a Presidio Trust record?

Responsibilities of the Presidio Trust

- 1012.8 How will the Presidio Trust process my *Touhy* Request?
- 1012.9 What criteria will the Presidio Trust consider in responding to my *Touhy* Request?

Responsibilities of Employees

- 1012.10 What must I, as an employee, do upon receiving a request?

1012.11 Must I get approval before testifying as an expert witness other than on behalf of the United States in a Federal proceeding in which the United States is a party or has a direct and substantial interest?

Authority: 16 U.S.C. 460bb appendix; 40 U.S.C. 102; 44 U.S.C. 2901 and 3102.

General Information

§ 1012.1 What does this part cover?

(a) This part describes how the Presidio Trust responds to requests or subpoenas for:

(1) Testimony by employees in State, territorial or Tribal judicial, legislative or administrative proceedings concerning information acquired while performing official duties or because of an employee's official status;

(2) Testimony by employees in Federal court civil proceedings in which the United States or the Presidio Trust is not a party concerning information acquired while performing official duties or because of an employee's official status;

(3) Testimony by employees in any judicial or administrative proceeding in which the United States or the Presidio Trust, while not a party, has a direct and substantial interest;

(4) Official records or certification of such records for use in Federal, State, territorial or Tribal judicial, legislative or administrative proceedings.

(b) In this part, "employee" means a current or former Presidio Trust employee, or Board member, including a contractor or special government employee, except as the Presidio Trust may otherwise determine in a particular case.

(c) This part does not apply to:

(1) Congressional requests or subpoenas for testimony or records;

(2) Federal court civil proceedings in which the United States or the Presidio Trust is a party;

(3) Federal administrative proceedings;

(4) Federal, State and Tribal criminal court proceedings;

(5) Employees who voluntarily testify, while on their own time or in approved leave status, as private citizens as to facts or events that are not related to the official business of the Presidio Trust. The employee must state for the record that the testimony represents the employee's own views and is not necessarily the official position of the Presidio Trust. See 5 CFR 2635.702(b), 2635.807(b).

(6) Testimony by employees as expert witnesses on subjects outside their official duties, except that they must obtain prior approval if required by § 1012.11.

(d) This part does not affect the rights of any individual or the procedures for obtaining records under the Freedom of Information Act (FOIA), Privacy Act, or statutes governing the certification of official records. The Presidio Trust FOIA and Privacy Act regulations are found at parts 1007 and 1008 of this chapter.

(e) Nothing in this part is intended to impede the appropriate disclosure under applicable laws of Presidio Trust information to Federal, State, territorial, Tribal, or foreign law enforcement, prosecutorial, or regulatory agencies.

(f) This part only provides guidance for the internal operations of the Presidio Trust, and neither creates nor is intended to create any enforceable right or benefit against the United States or the Presidio Trust.

§ 1012.2 What is the Presidio Trust's policy on granting requests for employee testimony or Presidio Trust records?

(a) Except for proceedings covered by § 1012.1(c) and (d), it is the Presidio Trust's general policy not to allow its employees to testify or to produce Presidio Trust records either upon request or by subpoena. However, if the party seeking such testimony or records requests in writing, the Presidio Trust will consider whether to allow testimony or production of records under this part. The Presidio Trust's policy ensures the orderly execution of its mission and programs while not impeding any proceeding inappropriately.

(b) No Presidio Trust employee may testify or produce records in any proceeding to which this part applies unless authorized by the Presidio Trust under §§ 1012.1 through 1012.11. *United States ex rel. Touhy v. Ragen*, 340 U.S. 462 (1951).

Responsibilities of Requesters

§ 1012.3 How can I obtain employee testimony or Presidio Trust records?

(a) To obtain employee testimony, you must submit:

(1) A written request (hereafter a "Touhy Request;" see § 1012.5 and *United States ex rel. Touhy v. Ragen*, 340 U.S. 462 (1951)); and

(2) A statement that you will submit a valid check for costs to the Presidio Trust, in accordance with § 1012.6, if your Touhy Request is granted.

(b) To obtain official Presidio Trust records, you must submit:

(1) A Touhy Request; and

(2) A statement that you agree to pay the costs of search and/or duplication in accordance with the provisions governing requests under the Freedom of Information Act in part 1007 of this

chapter, if your Touhy Request is granted.

(c) You must send your Touhy Request to both:

(1) The employee; and

(2) The General Counsel of the Presidio Trust.

(d) The address of Presidio Trust employees and the General Counsel is: Presidio Trust, 34 Graham Street, P.O. Box 29052, San Francisco, CA 94129-0052.

§ 1012.4 If I serve a subpoena duces tecum, must I also submit a Touhy request?

Yes. If you serve a subpoena for employee testimony or if you serve a subpoena duces tecum for records in the possession of the Presidio Trust, you also must submit a Touhy Request.

§ 1012.5 What information must I put in my Touhy Request?

Your Touhy Request must:

(a) Identify the employee or record;

(b) Describe the relevance of the desired testimony or records to your proceeding and provide a copy of the pleadings underlying your request;

(c) Identify the parties to your proceeding and any known relationships they have with the Presidio Trust or to its mission or programs;

(d) Show that the desired testimony or records are not reasonably available from any other source;

(e) Show that no record could be provided and used in lieu of employee testimony;

(f) Provide the substance of the testimony expected of the employee; and

(g) Explain why you believe your Touhy Request meets the criteria specified in § 1012.9.

§ 1012.6 How much will I be charged?

We will charge you the costs, including travel expenses, for employees to testify under the relevant substantive and procedural laws and regulations. You must pay costs for record production in accordance with the provisions governing requests under the Freedom of Information Act in part 1007 of this chapter. Estimated Costs must be paid in advance by check or money order payable to the Presidio Trust. Upon determination of the precise costs, the Presidio Trust will either reimburse you for any overpayment, or charge you for any underpayment, which charges must be paid within 10 business days by check or money order payable to the Presidio Trust.

§ 1012.7 Can I get an authenticated copy of a Presidio Trust record?

Yes. We may provide an authenticated copy of a Presidio Trust record, for purposes of admissibility under Federal, State or Tribal law. We will do this only if the record has been officially released or would otherwise be released under parts 1007 or 1008 of this chapter, or this part.

Responsibilities of the Presidio Trust**§ 1012.8 How will the Presidio Trust process my Touhy Request?**

(a) The Executive Director will decide whether to grant or deny your *Touhy* Request. The Presidio Trust's General Counsel, or his or her agent, may negotiate with you or your attorney to refine or limit both the timing and content of your *Touhy* Request. When necessary, the General Counsel also will coordinate with the Department of Justice to file appropriate motions, including motions to remove the matter to Federal court, to quash, or to obtain a protective order.

(b) We will limit the Presidio Trust's decision to allow employee testimony to the scope of your *Touhy* Request.

(c) If you fail to follow the requirements of this part, we will not allow the testimony or produce the records.

(d) If your *Touhy* Request is complete, we will consider the request under § 1012.9.

§ 1012.9 What criteria will the Presidio Trust consider in responding to my Touhy Request?

In deciding whether to grant your *Touhy* Request, the Executive Director will consider:

(a) Your ability to obtain the testimony or records from another source;

(b) The appropriateness of the employee testimony and record

production under the relevant regulations of procedure and substantive law, including the FOIA or the Privacy Act; and

(c) The Presidio Trust's ability to:

(1) Conduct its official business unimpeded;

(2) Maintain impartiality in conducting its business;

(3) Minimize the possibility that the Presidio Trust will become involved in issues that are not related to its mission or programs;

(4) Avoid spending public employees' time for private purposes;

(5) Avoid any negative cumulative effect of granting similar requests;

(6) Ensure that privileged or protected matters remain confidential; and

(7) Avoid undue burden on the Presidio Trust.

Responsibilities of Employees**§ 1012.10 What must I, as an employee, do upon receiving a request?**

(a) If you receive a request or subpoena that does not include a *Touhy* Request, you must immediately notify your supervisor and the Presidio Trust's General Counsel for assistance in issuing the proper response.

(b) If you receive a *Touhy* Request, you must promptly notify your supervisor and forward the request to the General Counsel. After consulting with the General Counsel, the Executive Director will decide whether to grant the *Touhy* Request under § 1012.9.

(c) All decisions granting or denying a *Touhy* Request must be in writing. The Executive Director must ask the General Counsel for advice when preparing the decision.

(d) Under 28 U.S.C. 1733, Federal Rule of Civil Procedure 44(a)(1), or comparable State or Tribal law, a request for an authenticated copy of a Presidio Trust record may be granted by

the person having the legal custody of the record. If you believe that you have custody of a record:

(1) Consult the General Counsel to determine if you can grant a request for authentication of records; and

(2) Consult the General Counsel concerning the proper form of the authentication (as authentication requirements may vary by jurisdiction).

§ 1012.11 Must I get approval before testifying as an expert witness other than on behalf of the United States in a Federal proceeding in which the United States is a party or has a direct and substantial interest?

(a) You must comply with 5 CFR 2635.805(c), which details the authorization procedure for an employee to testify as an expert witness, not on behalf of the United States, in any proceeding before a court or agency of the United States in which the United States is a party or has a direct and substantial interest. This procedure means:

(1) You must obtain the written approval of the Presidio Trust's General Counsel;

(2) You must be in an approved leave status if you testify during duty hours; and

(3) You must state for the record that you are appearing as a private individual and that your testimony does not represent the official views of the Presidio Trust.

(b) If you testify as an expert witness on a matter outside the scope of your official duties, and which is not covered by paragraph (a) of this section, you must comply with 5 CFR 2635.802.

Dated: August 14, 2009.

Karen A. Cook,
General Counsel.

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Proposed Rules

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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.

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 242

[Release No. 34-60509; File No. S7-08-09]

RIN 3235-AK35

Amendments to Regulation SHO

AGENCY: Securities and Exchange Commission.

ACTION: Proposed rule; notice of re-opening of comment period and supplemental request for comment.

SUMMARY: The Securities and Exchange Commission is re-opening the comment period to the “Amendments to Regulation SHO” it proposed in Securities Exchange Act Release No. 59748 (Apr. 10, 2009), 74 FR 18042 (Apr. 20, 2009) (the “Proposal”). As a supplement to our request for comment on the Proposal, we are soliciting additional feedback regarding an alternative price test, on which we solicited comment in the Proposal, that would allow short selling only at a price above the current national best bid (the “alternative uptick rule”). We are publishing this supplemental request for comment and reopening the comment period to help ensure that the public has a full opportunity to provide comments on the alternative uptick rule.

DATES: Comments should be received on or before September 21, 2009.

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

Electronic Comments

- Use the Commission’s Internet comment form (<http://www.sec.gov/rules/proposed.shtml>); or
- Send an e-mail to rule-comments@sec.gov. Please include File Number S7-08-09 on the subject line; or
- Use the Federal eRulemaking Portal (<http://www.regulations.gov>). Follow the instructions for submitting comments.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549-1090.

All submissions should refer to File Number S7-08-09. This file number should be included on the subject line if e-mail is used. To help us process and review your comments more efficiently, please use only one method. We will post all comments on the Commission’s Internet Web site (<http://www.sec.gov/rules/proposed.shtml>). Comments are also available for public inspection and copying in the Commission’s Public Reference Room, 100 F Street, NE., Washington, DC 20549 on official business days between the hours of 10 a.m. and 3 p.m. All comments received will be posted without change; we do not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly.

FOR FURTHER INFORMATION CONTACT: Jo Anne Swindler, Acting Associate Director; Josephine J. Tao, Assistant Director; Victoria Crane, Branch Chief; or Katrina Wilson, Staff Attorney, Division of Trading and Markets, at (202) 551-5720, at the Commission, 100 F Street, NE., Washington, DC 20549-6628.

SUPPLEMENTARY INFORMATION: On April 8, 2009, we proposed to re-examine and seek comment on whether to impose price test restrictions or circuit breaker restrictions on short selling.¹ The Proposal was published for comment on April 20, 2009 and the comment period initially closed on June 19, 2009.²

I. Introduction

In the Proposal, we proposed two approaches to restrictions on short selling: one that would apply on a market-wide and permanent basis (“short sale price test” or “short sale price test restriction”) and one that would apply only to a particular security during a severe market decline in the price of that security (“circuit breaker”).³ With respect to the first approach, we proposed two alternative short sale price tests: one based on the current national best bid (the “proposed

modified uptick rule”) and the second based on the last sale price (the “proposed uptick rule”). With respect to the second approach, we proposed two alternative circuit breaker tests: one that would temporarily prohibit short selling in a particular security when there is a severe decline in the price of that security; and one that would temporarily impose either the proposed modified uptick rule or the proposed uptick rule on short sales in a particular security when there is a severe decline in the price of that security. Although we sought comment on the alternative uptick rule, it was not one of the proposed approaches.

The Proposal sought comment on all aspects of the proposed approaches to restrictions on short selling. Among other things, the Proposal inquired whether the alternative uptick rule, which would permit short selling at a price above the current national best bid, would be preferable to the proposed modified uptick rule and the proposed uptick rule.⁴ We sought comment regarding the application of the alternative uptick rule as a market-wide permanent price test restriction or in conjunction with a circuit breaker.⁵ We have received almost 4,000 unique comment letters in response to the Proposal, as well as over 250 copies of 4 different standard letter types, and a petition with 5,605 signatures.⁶ We have received one comment letter that favored adoption of the alternative uptick rule on a market-wide permanent basis.⁷ Six commenters who stated that there is not any need for the Commission to enact any further restrictions on short selling expressed support for applying the alternative uptick rule in combination with a circuit breaker if some form of a price test were to be instituted.⁸ One

⁴ See Proposal, 74 FR at 18072, 18081, 18082.

⁵ See *id.*

⁶ The full text of comments to the Proposal, including the text of standard letter types and a petition, is publicly available at: <http://www.sec.gov/comments/s7-08-09/s70809.shtml>.

⁷ See letter from Glen Shipway, dated June 19, 2009.

⁸ See letter from Erik Swanson, SVP and General Counsel, BATS Exchange, Inc., dated May 14, 2009 (“BATS”); letter from Johnny Peters, ChFC, dated May 20, 2009; letter from Dan Mathisson, Managing Director, Credit Suisse Securities (USA), LLC, dated June 16, 2009 (“Credit Suisse”); letter from Ira D. Hammerman, Senior Managing Director and General Counsel, SIFMA, dated June 19, 2009.

¹ See Proposal, 74 FR 18042.

² See *id.*

³ See *id.*

Continued

commenter who stated that a price test could contribute to the goal of restoring investor confidence expressed support for the alternative uptick rule, but expressed a preference for the proposed modified uptick rule.⁹ In addition, the Commission hosted a roundtable on May 5, 2009 to examine short sale price test and circuit breaker restrictions, at which several panelists expressed support for the alternative uptick rule.¹⁰

We want to further consider the alternative uptick rule and whether adopting it would achieve our objectives. Accordingly, we are publishing this supplemental request for comment and reopening the comment period to help ensure that the public has a full opportunity to provide comments on the Proposal, the alternative uptick rule, and any other matters that may have an effect on the Proposal and to assist the Commission in its consideration of the same.

II. Discussion

A. The Alternative Uptick Rule

As noted in the Proposal, the alternative uptick rule would allow short selling only at a price above the current national best bid such that short selling would occur only at a higher price than the current national best bid.¹¹ The alternative uptick rule would be similar to the proposed modified uptick rule in that both would use the

(“SIFMA”); letter from Paul M. Russo, Managing Director, Head of U.S. Equity Trading, Goldman, Sachs & Co., dated June 19, 2009 (“Goldman Sachs”); letter from Eric W. Hess, General Counsel, DirectEdge, dated June 23, 2009. In addition, we note that prior to the Commission issuing the Proposal, four exchanges, NYSE Euronext, The Nasdaq OMX Group, Inc., BATS Exchange, Inc., and National Stock Exchange (the “national securities exchanges”), submitted a comment letter recommending a circuit breaker combined with a price test that would allow short selling only at an increment above the current national best bid, like the alternative uptick rule. NYSE Euronext, in its subsequent comments, stated that it supported the proposed modified uptick rule rather than the position expressed in the earlier March 24, 2009 letter. See statement of Larry Leibowitz, Group Executive Vice President and Head of Global Technology and US Execution, NYSE Euronext, dated May 5, 2009 (“statement of NYSE Euronext”); letter from Janet M. Kissane, Senior Vice President, Legal and Corporate Secretary, NYSE Euronext, dated June 19, 2009 (“NYSE Euronext”).

⁹ See statement of NYSE Euronext; letter from NYSE Euronext.

¹⁰ See Unofficial Copy of Roundtable Transcript available at <http://www.sec.gov/spotlight/shortsales.htm>. (the following individuals commented on the alternative uptick rule during the roundtable: Richard Ketchum, Chairman and CEO, FINRA; Dan Mathisson, Managing Director, Credit Suisse Securities (USA) LLC; Lawrence Leibowitz, Group Executive Vice President, Head of US Markets and Global Technology, NYSE Euronext; and Dr. Frank Hatheway, Chief Economist, Nasdaq OMX Group).

¹¹ See Proposal, 74 FR at 18072, 18081, 18082.

current national best bid as a reference point for short sale orders. Unlike the proposed modified uptick rule (and the proposed uptick rule), the alternative uptick rule would not allow short selling at the current national best bid (or last sale price). Instead, in an advancing or declining market, the alternative uptick rule would only permit short selling at an increment above the current national best bid, unless an applicable exception applies.¹²

Because it would only permit short selling at an increment above the national best bid, the alternative uptick rule would not allow short sales to get immediate execution, even in an advancing market, and therefore the alternative uptick rule would restrict short selling to a greater extent than either the proposed modified uptick rule or the proposed uptick rule. We note, however, that because the alternative uptick rule would reference only the current national best bid in determining permissible short sales, it would not require monitoring of the sequence of bids or last sale prices (*i.e.*, whether the current national best bid or last sale price is above or below the previous national best bid or last sale price). As a result, in the view of at least one commenter, the alternative uptick rule would likely be easier to monitor¹³ and, in the view of several commenters, could likely be implemented more quickly than the proposed modified uptick rule or the proposed uptick rule.¹⁴ For the same reason, at least two commenters stated that the alternative uptick rule could potentially be less costly to implement than the proposed modified uptick rule or the proposed uptick rule.¹⁵ In addition, several commenters noted that the alternative uptick rule would be easier to program into trading and surveillance systems than the proposed modified uptick rule or the proposed uptick rule because it would not require bid sequencing.¹⁶

However, because the alternative uptick rule would restrict short selling to a greater extent than either the proposed modified uptick rule or the proposed uptick rule, it could also potentially lessen some of the benefits of legitimate short selling, including

¹² See *infra* discussion in Section II.B., “Exceptions.”

¹³ See, *e.g.*, letter from SIFMA.

¹⁴ See, *e.g.*, statement from NSYE Euronext; letter from Credit Suisse; letter from SIFMA; letter from Glen Shipway; letter from Goldman Sachs.

¹⁵ See, *e.g.*, letter from BATS; letter from Glen Shipway.

¹⁶ See, *e.g.*, letter from the national securities exchanges; letter from Glen Shipway; letter from Goldman Sachs.

market liquidity and pricing efficiency¹⁷ to a greater extent. Thus, there may be potential costs associated with the alternative uptick rule in terms of potential impact of such a price test on quote depths, spread widths, market liquidity, execution and pricing inefficiencies.

In the Proposal, we proposed a policies and procedures approach with the proposed modified uptick rule, such that the rule would require trading centers¹⁸ to have policies and procedures reasonably designed to prevent the execution or display of short sales at impermissible prices.¹⁹ In contrast, we proposed a straight prohibition approach with the proposed uptick rule, such that the rule would prohibit any person from effecting short sales at impermissible prices.²⁰ We also discussed in the Proposal that in adopting a final rule, we could take several different approaches, or a combination of approaches.²¹ Similarly, as discussed in the Proposal, the alternative uptick rule could ultimately be implemented through a policies and procedures approach or through a straight prohibition approach or some combination thereof.²²

In addition, as was noted in the Proposal, the alternative uptick rule could be implemented in combination with a short selling circuit breaker.²³ Specifically, in the Proposal, we requested comment regarding whether a circuit breaker that would temporarily impose the alternative uptick rule on short sales in a particular security when there is a severe decline in the price of that security would be preferable to a circuit breaker that would impose either

¹⁷ See, *e.g.*, Securities Exchange Act Release No. 54891 (Dec. 7, 2006), 71 FR 75068, 75069 (Dec. 13, 2006); Securities Exchange Act Release No. 48709 (Oct. 28, 2003), 68 FR 62972, 62974 (Nov. 6, 2003); Securities Exchange Act Release No. 29278 (June 7, 1991), 56 FR 27280 (June 13, 1991); Securities Exchange Act Release No. 50103 (July 28, 2004), 69 FR 48009, n. 6 (Aug. 6, 2004); Boehmer, Ekkehart and Wu, Julie, *Short Selling and the Informational Efficiency of Prices* (Jan. 8, 2009).

¹⁸ A “trading center” means a national securities exchange or national securities association that operates a self-regulatory organization trading facility, an alternative trading system, an exchange market maker, an over-the-counter market maker, or any other broker or dealer that executes orders internally by trading as principal or crossing orders as agent. See 17 CFR 242.600(b)(78); see also Proposal, 74 FR at 18043, 18051.

¹⁹ See Proposal, 74 FR at 18051–18052.

²⁰ See Proposal, 74 FR at 18052, 18062.

²¹ See Proposal, 74 FR at 18049.

²² See Proposal, 74 FR at 18072. For instance, the approaches could be combined so that persons are prohibited from selling short at or below the current national best bid and trading centers are also required to have reasonable policies and procedures to prevent the execution or display of a short sale at or below the current national best bid.

²³ See Proposal, 74 FR at 18081, 18082.

the proposed modified uptick rule or the proposed uptick rule.²⁴

Similar to a circuit breaker that would impose either the proposed modified uptick rule or the proposed uptick rule, as discussed in the Proposal, a circuit breaker that would impose the alternative uptick rule would be triggered by an intraday decline in the price of an individual equity security by a set percentage (for example 10, 15 or 20 percent) from the prior day's closing price.²⁵ A circuit breaker that would impose the alternative uptick rule would include the same exceptions as discussed with respect to the market-wide permanent alternative uptick rule.²⁶ In addition, like the market-wide permanent alternative uptick rule, discussed above, a circuit breaker that would impose the alternative uptick rule would restrict short selling to a greater extent and would likely be easier to implement than a circuit breaker that would impose either the proposed modified uptick rule or the proposed uptick rule. However, a circuit breaker that would impose the alternative uptick rule would be less restrictive than a circuit breaker halt rule, which would temporarily prohibit short selling in a particular security if there is a severe decline in price in that security.²⁷

B. Exceptions

In the Proposal, the proposed modified uptick rule and the proposed uptick rule included types of short sales that would not be subject to the requirements of the proposed rules.²⁸ For example, the proposed modified uptick rule would require that a trading center's policies and procedures be reasonably designed to permit the execution or display of a short sale order marked "short exempt" without regard to whether the order would otherwise be impermissible.²⁹ The proposed uptick rule included a number of exceptions to its price test restrictions on short sales that, for the most part, paralleled the provisions in the proposed modified uptick rule relating to short sale orders that could be marked "short exempt."³⁰

We believe that, because the alternative uptick rule would be most similar to the proposed modified uptick rule, in that both approaches would use

the current national best bid as their reference point, the rationale discussed in the Proposal for the "short exempt" marking provisions under the proposed modified uptick rule would be similarly applicable to the alternative uptick rule.³¹ Whether requiring a policies and procedures approach, or a prohibition approach, the alternative uptick rule could also include "short exempt" provisions or exceptions for: (i) A seller's delay in delivery as set forth in Section III.A.2.b of the Proposal;³² (ii) odd lots, as set forth in Section III.A.2.c of the Proposal;³³ (iii) domestic arbitrage, as set forth in Section III.A.2.d of the Proposal;³⁴ (iv) international arbitrage, as set forth in Section III.A.2.e of the Proposal;³⁵ (v) over-allotments and lay-off sales, as set forth in Section III.A.2.f of the Proposal;³⁶ (vi) transactions on a VWAP basis, as set forth in Section III.A.2.h of the Proposal;³⁷ and (vii) riskless principal transactions as set forth in Section III.A.2.g of the Proposal.³⁸ As we recognize that the alternative uptick rule would be more restrictive than the proposed modified uptick rule, we also renew our request for comment on the importance of a market maker exception. We ask for comment on the scope of any such exception and the conditions that should be imposed to ensure that it is used only for bona fide market making.

III. Request for Comment

A. General Request for Comment

We renew our request for comment on all aspects of the alternative uptick rule. Commenters are requested to provide empirical data in support of any arguments and/or analyses. In addition to the questions posed above,

³¹ We have received comments noting that a more restrictive form of price test or circuit breaker would require additional exemptions. See e.g., Unofficial Copy of Roundtable Transcript, available at <http://www.sec.gov/spotlight/shortsales.htm> (statement by Lawrence Leibowitz, Group Executive Vice President, Head of US Markets and Global Technology, NYSE Euronext). See also letter from the Investment Company Institute, dated June 19, 2009.

³² 74 FR at 18055.

³³ *Id.*

³⁴ 74 FR at 18056.

³⁵ *Id.*

³⁶ 74 FR at 18057.

³⁷ 74 FR at 18058.

³⁸ 74 FR at 18057. We note that the proposed uptick rule included exceptions that paralleled the "short exempt" marking provisions for the proposed modified uptick rule, as well as three exceptions specific to a price test based on last sale price. In addition, one exception (error in marking a short sale) was specific to a prohibition approach, rather than a policies and procedures approach, and would be applicable to the alternative uptick rule if it were adopted with a prohibition approach. See Proposal, 74 FR at 18063.

commenters are welcome to offer their views on any other matter raised by the alternative uptick rule and the Proposal. With respect to any comments, we note that they are of the greatest assistance to our rulemaking initiative if accompanied by supporting data and analysis of the issues addressed in those comments and by alternatives to our proposals where appropriate. We note that while there were questions in the Proposal that were specific to the alternative uptick rule, the Proposal also included discussion and solicited comment throughout that may be relevant to consideration of the alternative uptick rule and we refer commenters to the Proposal.

B. Specific Comment Request

We renew our request for comment in response to the following specific questions that were originally published in the Proposal.³⁹ We request comment on the questions set forth under the "Supplemental Comment Request" below.

Renewal of Comment Request

1. Would the alternative uptick rule be more effective at preventing short selling, including potentially manipulative or abusive short selling, from being used as a tool to drive down the market or from being used to accelerate a declining market than the approach set forth in the proposed modified uptick rule or proposed uptick rule? If so, how? If not, why not?⁴⁰

2. What effect would the alternative uptick rule have on the benefits of short selling, such as providing price efficiency and liquidity?⁴¹

3. Would the alternative uptick rule be easier to program into trading and surveillance systems than the approach in the proposed modified uptick rule or proposed uptick rule? If so, why? If not, why not?⁴²

4. If adopted, should the alternative uptick rule be combined with a policies and procedures approach similar to that discussed under the proposed modified uptick rule or a prohibition approach similar to that discussed under the proposed uptick rule? What would be the advantages and disadvantages, including costs and benefits of each of these approaches as combined with the alternative uptick rule?⁴³

5. If the Commission were to adopt a circuit breaker rule, should the circuit breaker, when triggered, result in the

³⁹ See Proposal, 74 FR at 18072, 18081.

⁴⁰ See Proposal, 74 FR at 18072.

⁴¹ See *id.*

⁴² See *id.*

⁴³ See *id.*

²⁴ See *id.*

²⁵ See Proposal 74 FR at 18069.

²⁶ See *infra* discussion in Section II.B., "Exceptions."

²⁷ See Proposal, 74 FR at 18066.

²⁸ See Proposal, 74 FR at 18054–18059, 18062–18064.

²⁹ See Proposal, 74 FR at 18054–18059.

³⁰ See Proposal, 74 FR at 18062–18064.

alternative uptick rule? If so, why? If not, why not?⁴⁴

Supplemental Comment Request

1. How effective would the alternative uptick rule be at helping to prevent short selling, including potentially abusive or manipulative short selling, from being used as a tool for driving the market down or from being used to accelerate a declining market by exhausting all remaining bids at one price level? Please explain and provide empirical data in support of any arguments and/or analyses. Could the alternative uptick rule be modified to better meet these goals? If so, how? Please explain and provide empirical data in support of any arguments and/or analyses.

2. How would the alternative uptick rule affect short selling in an advancing market? How would the alternative uptick rule affect short selling in a declining market? Please explain and provide empirical data in support of any arguments and/or analyses.

3. To the extent that there are concerns regarding investor confidence based on the numerous requests for reinstatement of short sale price test restrictions, would adopting the alternative uptick rule help restore investor confidence? If so, why? If not, why not? Please explain and provide empirical data or other specific information in support of any arguments and/or analyses.

4. In addition to investor confidence and market volatility, we have stated that we are concerned about potentially abusive short selling. Would the alternative uptick rule help address potentially abusive short selling? If so, how? If not, why not? Please explain and provide empirical data in support of any arguments and/or analyses.

5. In the Proposal, we also noted that short selling may be used to illegally manipulate stock prices.⁴⁵ What impact, if any, would the alternative uptick rule have on short selling used to illegally manipulate stock prices? Please explain and provide empirical data in support of any arguments and/or analyses.

6. What impact, if any, would the alternative uptick rule have on “bear raids”? Please explain and provide empirical data in support of any arguments and/or analyses.

7. Would the alternative uptick rule be an appropriate short sale price test in the current decimals environment? Would the alternative uptick rule be more suitable than the proposed modified uptick rule or the proposed

uptick rule in a decimals environment with multiple trading centers? Please explain and provide empirical data in support of any arguments and/or analyses.

8. How would trading systems and strategies used in today’s marketplace be affected by the alternative uptick rule? How might market participants alter their trading systems and strategies in response to the alternative uptick rule, if adopted?

9. What impact, if any, would the trading requirements of Regulation NMS have on implementing the alternative uptick rule?

10. The proposed modified uptick rule and the proposed uptick rule have as their reference point for a permissible short sale the current national best bid, and the last sale price, respectively, in relation to the last differently priced national best bid, and the last differently priced sale price, respectively. In contrast, the alternative uptick rule would have as its reference point the current national best bid. Accordingly, the sequence of bids would not play a role in determining when short sales are permissible. How would removing bid or sale price sequencing from the requirements of a short sale price test restriction, if adopted, affect implementation costs, ongoing costs, the effectiveness of the restriction in achieving the Commission’s goals, market liquidity, pricing efficiency, and investor confidence?

11. If we were to adopt the alternative uptick rule, would a two month implementation period following the effective date of the alternative uptick rule be appropriate? Would a shorter or longer implementation period be more appropriate for the alternative uptick rule? Please explain.

12. Because the alternative uptick rule would not require monitoring of the sequence of bids or last sale prices (*i.e.*, whether the current national best bid or last sale price is above or below the previous national best bid or last sale price), could this type of rule be implemented more quickly than the proposed modified uptick rule or the proposed uptick rule?

13. What would be the impact of the alternative uptick rule on off-exchange trading? Specifically, would there be any special concerns with respect to off-exchange trading in connection with the alternative uptick rule, such as systems and/or implementation issues, or additional or alternative provisions that should be considered?

14. As discussed above, if adopted with a policies and procedures approach, similar to the proposed modified uptick rule, the following

short sale orders could be marked as “short exempt” and could, therefore, be exempt from the requirements of the alternative uptick rule: (i) A seller’s delay in delivery as set forth in Section III.A.2.b of the Proposal;⁴⁶ (ii) odd lots, as set forth in Section III.A.2.c. of the Proposal;⁴⁷ (iii) domestic arbitrage, as set forth in Section III.A.2.d. of the Proposal;⁴⁸ (iv) international arbitrage, as set forth in Section III.A.2.e. of the Proposal;⁴⁹ (v) over-allotments and lay-off sales, as set forth in Section III.A.2.f. of the Proposal;⁵⁰ (vi) transactions on a VWAP basis, as set forth in Section III.A.2.h. of the Proposal;⁵¹ and (vii) riskless principal transactions as set forth in Section III.A.2.g. of the Proposal.⁵² In addition, if adopted with a prohibition approach, the exception specific to the proposed uptick rule for error in marking a short sale, as set forth in Section III.B.2.a. of the Proposal,⁵³ would also apply to the alternative uptick rule. Are these “short exempt” provisions or exceptions necessary or appropriate? If so, why? If not, why not?

15. Are there other “short exempt” provisions or exceptions that should apply to the alternative uptick rule? If so, please explain. Should a general market maker exception apply to the alternative uptick rule? Should an options market maker exception apply? What should be the scope of any such exceptions? Should additional conditions apply to a market maker exception under the alternative uptick rule to ensure that only bona fide market making is captured by the exception?

16. The Proposal includes a discussion of estimated annual reporting and recordkeeping burdens with respect to provisions of the proposed rules that would require a new “collection of information” under the Paperwork Reduction Act of 1995.⁵⁴ We invite comment on these estimates with respect to the alternative uptick rule.⁵⁵

⁴⁶ 74 FR at 18055.

⁴⁷ *Id.*

⁴⁸ 74 FR at 18056.

⁴⁹ *Id.*

⁵⁰ 74 FR at 18057.

⁵¹ 74 FR at 18058.

⁵² 74 FR at 18057.

⁵³ 74 FR at 18063.

⁵⁴ 44 U.S.C. 3501 *et seq.* See Proposal, 74 FR at 18084–18090.

⁵⁵ Persons submitting comments on the collection of information requirements should direct them to the Office of Management and Budget, Attention: Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Washington, DC 20503, and should also send a copy of their comments to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090, with reference to File No. S7–08–09. Requests for materials submitted to OMB by the

⁴⁴ See Proposal, 74 FR at 18081.

⁴⁵ See *id.*

17. The Proposal includes a discussion of estimated costs and benefits of the proposed rules.⁵⁶ We are sensitive to the costs and benefits of the alternative uptick rule, and encourage commenters to discuss any additional costs or benefits specific to the alternative uptick rule and/or beyond those discussed in the Proposal, as well as any reduction in costs. What would be the costs and benefits of the alternative uptick rule versus the proposed modified uptick rule, the proposed uptick rule, the circuit breaker halt rule or a circuit breaker triggering either the proposed modified uptick rule or the proposed uptick rule? What would be the general costs and benefits of short sales being subject to the alternative uptick rule? Commenters should provide analysis and data to support their views of the costs and benefits associated with the alternative uptick rule.

18. The Proposal includes a discussion of whether the proposed rules would promote efficiency, competition, and capital formation.⁵⁷ We request comment on whether the alternative uptick rule would likely promote efficiency, capital formation, and competition.

19. The Proposal includes an Initial Regulatory Flexibility Analysis ("IRFA"), in accordance with the provisions of the Regulatory Flexibility Act,⁵⁸ regarding the proposed rules.⁵⁹ We solicit written comments regarding our IRFA analysis. In particular, the Commission seeks comment on the number of small entities that would be affected by the alternative uptick rule. We request that commenters provide empirical data to quantify the number of small entities that could be affected by the proposed amendments. We request comment on whether the proposed amendments would have any effects that we have not discussed. We also request that commenters describe the nature of any impact on small entities and provide empirical data to support the extent of the impact.

20. A number of commenters stated that their first preference would be for

the Commission not to adopt any of the short sale regulations set forth in the Proposal, and this option along with the alternative uptick rule and all other options discussed in the Proposal are under active consideration. We request comments on the position that the best result for investors and the markets would be for the Commission not to adopt any additional short selling regulations at this time. If the Commission determines that additional short selling regulations are necessary, what option, including the alternative uptick rule, would produce the best result for investors and the markets?

Dated: August 17, 2009.

By the Commission.

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E9-19989 Filed 8-19-09; 8:45 am]

BILLING CODE 8010-01-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG-2008-1158]

RIN 1625-AA09

Drawbridge Operation Regulation; Gulf Intracoastal Waterway (Algiers Alternate Route), Belle Chasse, LA

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking; withdrawal.

SUMMARY: The Coast Guard is withdrawing its notice of proposed rulemaking concerning the operation of the SR 23 bridge across the Gulf Intracoastal Waterway (Algiers Alternate Route), mile 3.8, at Belle Chasse, Plaquemines Parish, Louisiana. The notice of proposed rulemaking proposed to allow the bridge to remain closed-to-navigation for an additional 90 minutes during weekday afternoons to facilitate the movement of vehicular traffic.

DATES: The notice of proposed rulemaking published at 73 FR 13161, March 26, 2009, is withdrawn on August 20, 2009.

ADDRESSES: The docket for this withdrawn rulemaking is 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. You may also

find this docket on the Internet by going to <http://www.regulations.gov>, inserting USCG-2008-1158 in the "Keyword" box and then clicking "Search."

FOR FURTHER INFORMATION CONTACT: If you have any questions about this notice, call or e-mail David Frank, Bridge Administration Branch, telephone (504) 671-2128, e-mail David.m.frank@uscg.mil. If you have questions on viewing material in the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202-366-9826.

SUPPLEMENTARY INFORMATION:

Background

On March 26, 2009, we published a notice of proposed rulemaking entitled "Drawbridge Operation Regulations; Gulf Intracoastal Waterway (Algiers Alternate Route), Belle Chasse, LA" in the **Federal Register** (74 FR 13161). The rulemaking concerned a change to the regulation governing the operation of the SR 23 bridge across the Gulf Intracoastal Waterway (Algiers Alternate Route), mile 3.8, at Belle Chasse, Plaquemines Parish, Louisiana. Presently, the draw of the bridge need not open for the passage of vessels in the afternoon from 3:30 p.m. until 5:30 p.m. Plaquemines Parish Government requested that an additional 90 minutes be added to the closure in the afternoon so that the draw need not open for the passage of vessels from 3:30 p.m. until 7 p.m.

Withdrawal

On site analysis of the traffic patterns around the bridge and proposed modernization of the traffic lights on SR 23 which will improve the traffic flow indicate that the change is not warranted at this time. It was also determined that due to the increased time that the bridge was not required to open, longer delays at the end of the closure period were experienced by vehicular traffic. Additionally, road construction on another arterial roadway has caused a spike in traffic that should adjust following completion of the roadwork. Following all repairs to the bridge, modernization of the traffic management scheme, and the roadway repairs, if the Plaquemines Parish Government wishes to reapply for a change in the operating schedule, the Coast Guard will conduct a new investigation to determine if changes to the operating schedule are warranted.

Authority: This action is taken under the authority of 33 U.S.C. 499; 33 CFR 1.05-1; Department of Homeland Security Delegation No. 0170.1.

Commission with regard to this collection of information should be in writing, with reference to File No. S7-08-09, and be submitted to the Securities and Exchange Commission, Office of Investor Education and Advocacy, 100 F Street, NE., Washington, DC 20549-0213. As OMB is required to make a decision concerning the collections of information between 30 and 60 days after publication, a comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication.

⁵⁶ See Proposal, 74 FR at 18090-18103.

⁵⁷ See Proposal, 74 FR at 18103-18104.

⁵⁸ 5 U.S.C. 603.

⁵⁹ See Proposal, 74 FR at 18105-18107.

Dated: August 4, 2009.

Mary E. Landry,

*Rear Admiral, U.S. Coast Guard Commander,
Eighth Coast Guard District.*

[FR Doc. E9-19957 Filed 8-19-09; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R03-OAR-2009-0034; FRL-8946-9]

Approval and Promulgation of Air Quality Implementation Plans; Maryland; Clean Air Interstate Rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve State Implementation Plan (SIP) revisions submitted by the State of Maryland on October 24, 2007 and June 30, 2008, except for the 2009 nitrogen oxides (NO_x) ozone season and NO_x annual allocations, the 2009 set-aside allocations and the Compliance Supplement Pool (CSP) allocations. These revisions address the requirements of EPA's Clean Air Interstate Rule (CAIR). Although the District of Columbia (DC) Circuit found CAIR to be flawed, the rule was remanded without vacatur and thus remains in place. Thus, EPA is continuing to approve CAIR provisions into SIPs as appropriate. CAIR, as promulgated, requires States to reduce emissions of sulfur dioxide (SO₂) and NO_x that significantly contribute to, or interfere with maintenance of, the national ambient air quality standards (NAAQS) for fine particulates and/or ozone in any downwind State. CAIR establishes budgets for SO₂ and NO_x for States that contribute significantly to nonattainment in downwind States and requires the significantly contributing States to submit SIP revisions that implement these budgets. States have the flexibility to choose which control measures to adopt to achieve the budgets, including participation in EPA-administered cap-and-trade programs addressing SO₂, NO_x annual, and NO_x ozone season emissions. In the full SIP revisions that EPA is proposing to approve, Maryland will meet CAIR requirements by participating in these cap-and-trade programs. EPA is proposing to approve the full SIP revisions, as interpreted and clarified herein, as fully implementing the CAIR requirements for Maryland, except for the 2009 NO_x ozone season and NO_x

annual allocations, the 2009 set-aside allocations and the CSP allocations.

DATES: Written comments must be received on or before September 21, 2009.

ADDRESSES: Submit your comments, identified by Docket ID Number EPA-R03-OAR-2009-0034 by one of the following methods:

A. <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.

B. *E-mail:*
fernandez.cristina@epa.gov.

C. *Mail:* EPA-R03-OAR-2009-0034, Cristina Fernandez, Chief, Air Quality Planning Branch, Mailcode 3AP21, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103.

D. *Hand Delivery:* At the previously-listed EPA Region III address. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA-R03-OAR-2009-0034. 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.

Docket: All documents in the electronic docket are listed in the <http://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 <http://www.regulations.gov> or in hard copy during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the State submittal are available at the Maryland Department of the Environment, 1800 Washington Boulevard, Suite 705, Baltimore, Maryland 21230.

FOR FURTHER INFORMATION CONTACT: Marilyn Powers, (215) 814-2308, or by e-mail at powers.marilyn@epa.gov.

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I. What Action Is EPA Proposing?

EPA is proposing to approve, as interpreted and clarified herein, the full CAIR SIP revisions, submitted by Maryland on October 24, 2007 and June 30, 2008, as meeting the applicable CAIR requirements by requiring certain electric generating units (EGUs) to participate in the EPA-administered CAIR cap-and-trade programs addressing SO₂, NO_x annual, and NO_x ozone season emissions. The October 24, 2007 SIP revision consisted of new Maryland rule COMAR 26.11.28—Clean Air Interstate Rule (Maryland revision #07-14). The June 30, 2008 SIP revision consisted of revisions to Regulations .01

to .07 of COMAR 26.11.28 (Maryland revision #08–08).

II. What Is the Regulatory History of the CAIR and the CAIR Federal Implementation Plans (FIPs)?

EPA published CAIR on May 12, 2005 (70 FR 25162). In this rule, EPA determined that 28 States and the District of Columbia contribute significantly to nonattainment and interfere with maintenance of the NAAQS for fine particles (PM_{2.5}) and/or 8-hour ozone in downwind States in the eastern part of the country. As a result, EPA required those upwind States to revise their SIPs to include control measures that reduce emissions of SO₂, which is a precursor to PM_{2.5} formation, and/or NO_x, which is a precursor to both ozone and PM_{2.5} formation. For jurisdictions that contribute significantly to downwind PM_{2.5} nonattainment, CAIR sets annual State-wide emission reduction requirements (*i.e.*, budgets) for SO₂ and annual State-wide emission reduction requirements for NO_x. Similarly, for jurisdictions that contribute significantly to 8-hour ozone nonattainment, CAIR sets State-wide emission reduction requirements or budgets for NO_x for the ozone season (May 1st to September 30th). Under CAIR, States may implement these reduction requirements by participating in the EPA-administered cap-and-trade programs or by adopting any other control measures.

CAIR explains to subject States what must be included in SIPs to address the requirements of section 110(a)(2)(D) of the Clean Air Act (CAA) with regard to interstate transport with respect to the 8-hour ozone and 1997 PM_{2.5} NAAQS. EPA made national findings, effective on May 25, 2005, that the States had failed to submit SIPs meeting the requirements of section 110(a)(2)(D). The SIPs were due in July 2000, three years after the promulgation of the 8-hour ozone and PM_{2.5} NAAQS. These findings started a 2-year clock for EPA to promulgate a FIP to address the requirements of section 110(a)(2)(D). Under CAA section 110(c)(1), EPA may issue a FIP anytime after such findings are made and must do so within two years unless a SIP revision correcting the deficiency is approved by EPA before the FIP is promulgated.

On April 28, 2006, EPA promulgated FIPs for all States covered by CAIR in order to ensure the emissions reductions required by CAIR are achieved on schedule. The CAIR FIPs require EGUs to participate in the EPA-administered CAIR SO₂, NO_x annual, and NO_x ozone season trading programs, as appropriate. The CAIR FIP SO₂, NO_x annual, and

NO_x ozone season trading programs impose essentially the same requirements as, and are integrated with, the respective CAIR SIP trading programs. The integration of the FIP and SIP trading programs means that these trading programs will work together to create effectively a single trading program for each regulated pollutant (SO₂, NO_x annual, and NO_x ozone season) in all States covered by the CAIR FIP or SIP trading program for that pollutant. Further, as provided in a rule published by EPA on November 2, 2007, a State's CAIR FIPs are automatically withdrawn when EPA approves a SIP revision, in its entirety and without any conditions, as fully meeting the requirements of CAIR. Where only portions of the SIP revision are approved, the corresponding portions of the FIPs are automatically withdrawn and the remaining portions of the FIP stay in place. Finally, the CAIR FIPs also allow States to submit abbreviated SIP revisions that, if approved by EPA, will automatically replace or supplement certain CAIR FIP provisions (*e.g.*, the methodology for allocating NO_x allowances to sources in the State), while the CAIR FIP remains in place for all other provisions.

On April 28, 2006, EPA published two additional CAIR-related final rules that added the States of Delaware and New Jersey to the list of States subject to CAIR for PM_{2.5} and announced EPA's final decisions on reconsideration of five issues, without making any substantive changes to the CAIR requirements.

On October 19, 2007, EPA amended CAIR and the CAIR FIPs to clarify the definition of "cogeneration unit" and thus the applicability of the CAIR trading program to cogeneration units.

EPA was sued by a number of parties on various aspects of CAIR, and on July 11, 2008, the U.S. Court of Appeals for the District of Columbia Circuit issued its decision to vacate and remand both CAIR and the associated CAIR FIPs in their entirety. *North Carolina v. EPA*, 531 F.3d 836 (DC Cir. Jul. 11, 2008). However, in response to EPA's petition for rehearing, the Court issued an order remanding CAIR to EPA without vacating either CAIR or the CAIR FIPs. *North Carolina v. EPA*, 550 F.3d 1176 (DC Cir. Dec. 23, 2008). The Court thereby left CAIR in place in order to "temporarily preserve the environmental values covered by CAIR" until EPA replaces it with a rule consistent with the Court's opinion. *Id.* at 1178. The Court directed EPA to "remedy CAIR's flaws" consistent with its July 11, 2008 opinion, but declined to impose a schedule on EPA for

completing that action. *Id.* Therefore, CAIR and the CAIR FIP are currently in effect in Maryland.

III. What Are the General Requirements of CAIR and the CAIR FIPs?

CAIR establishes State-wide emission budgets for SO₂ and NO_x and is to be implemented in two phases. The first phase of NO_x reductions starts in 2009 and continues through 2014, while the first phase of SO₂ reductions starts in 2010 and continues through 2014. The second phase of reductions for both NO_x and SO₂ starts in 2015 and continues thereafter. CAIR requires States to implement the budgets by either: (1) Requiring EGUs to participate in the EPA-administered cap-and-trade programs; or (2) adopting other control measures of the State's choosing and demonstrating that such control measures will result in compliance with the applicable State SO₂ and NO_x budgets.

The May 12, 2005 and April 28, 2006 CAIR rules provide model rules that States must adopt (with certain limited changes, if desired) if they want to participate in the EPA-administered trading programs. With two exceptions, only States that choose to meet the requirements of CAIR through methods that exclusively regulate EGUs are allowed to participate in the EPA-administered trading programs. One exception is for States that adopt the opt-in provisions of the model rules to allow non-EGUs individually to opt into the EPA-administered trading programs. The other exception is for States that include all non-EGUs from their NO_x SIP Call trading programs in their CAIR NO_x ozone season trading programs.

IV. What Are the Types of CAIR SIP Submittals?

States have the flexibility to choose the type of control measures they will use to meet the requirements of CAIR. EPA anticipates that most States will choose to meet the CAIR requirements by selecting an option that requires EGUs to participate in the EPA-administered CAIR cap-and-trade programs. For such States, EPA has provided two approaches for submitting and obtaining approval for CAIR SIP revisions. States may submit full SIP revisions that adopt the model CAIR cap-and-trade rules. If approved, these SIP revisions will fully replace the CAIR FIPs. Alternatively, States may submit abbreviated SIP revisions. These SIP revisions will not replace the CAIR FIPs; however, the CAIR FIPs provide that, when approved, the provisions in these abbreviated SIP revisions will be used instead of or in conjunction with, as

appropriate, the corresponding provisions of the CAIR FIPs (e.g., the NO_x allowance allocation methodology).

A State submitting a full SIP revision may either adopt regulations that are substantively identical to the model rules or incorporate by reference the model rules. CAIR provides that States may only make limited changes to the model rules if the States want to participate in the EPA-administered trading programs. A full SIP revision may change the model rules only by altering their applicability and allowance allocation provisions to:

1. Include all NO_x SIP Call trading sources that are not EGUs under CAIR in the CAIR NO_x ozone season trading program;
2. Provide for State allocation of NO_x annual or ozone season allowances using a methodology chosen by the State;
3. Provide for State allocation of NO_x annual allowances from the compliance supplement pool (CSP) using the State's choice of allowed, alternative methodologies; or
4. Allow units that are not otherwise CAIR units to opt individually into the CAIR SO₂, NO_x annual, or NO_x ozone season trading programs under the opt-in provisions in the model rules. An approved CAIR full SIP revision addressing EGUs' SO₂, NO_x annual, or NO_x ozone season emissions will replace the CAIR FIP for that State for the respective EGU emissions. As discussed above, EPA approval in full, without any conditions, of a CAIR full SIP revision causes the CAIR FIPs to be automatically withdrawn.

V. Analysis of Maryland's CAIR SIP Submittal

A. State Budgets for Allowance Allocations

The CAIR NO_x annual and ozone season budgets were developed from historical heat input data for EGUs. Using these data, EPA calculated annual and ozone season regional heat input values, which were multiplied by 0.15 lb/mmBtu, for phase I, and 0.125 lb/mmBtu, for phase II, to obtain regional NO_x budgets for 2009–2014 and for 2015 and thereafter, respectively. EPA derived the State NO_x annual and ozone season budgets from the regional budgets using State heat input data adjusted by fuel factors.

The CAIR State SO₂ budgets were derived by discounting the tonnage of emissions authorized by annual allowance allocations under the Acid Rain Program under title IV of the CAA. Under CAIR, each allowance allocated

in the Acid Rain Program for the years in phase 1 of CAIR (2010 through 2014) authorizes 0.5 ton of SO₂ emissions in the CAIR trading program, and each Acid Rain Program allowance allocated for the years in phase 2 of CAIR (2015 and thereafter) authorizes 0.35 ton of SO₂ emissions in the CAIR trading program.

In today's action, EPA is proposing to approve a Maryland SIP revision that adopts by reference the budgets established for the State in CAIR. These budgets are 27,724 tons for NO_x annual emissions from 2009 through 2014, and 23,104 tons from 2015 and thereafter; 12,834 tons for NO_x ozone season emissions from 2009 through 2014, and 10,695 tons from 2015 and thereafter; and 70,697 tons for SO₂ annual emissions from 2009 through 2014, and 49,488 tons from 2015 and thereafter. Maryland's SIP revisions set these budgets as the total amounts of allowances available for allocation for each year under the EPA-administered cap-and-trade programs.

EPA notes that, in *North Carolina*, 531 F.3d at 916–21, the Court determined, among other things, that the State SO₂ and NO_x budgets established in CAIR were arbitrary and capricious.¹ However, as discussed above, the Court also decided to remand CAIR but to leave the rule in place in order to “temporarily preserve the environmental values covered by CAIR” pending EPA's development and promulgation of a replacement rule that remedies CAIR's flaws. *North Carolina*, 531 F.3d at 1178. EPA had indicated to the Court that development and promulgation of a replacement rule would take about two years. *Reply in Support of Petition for Rehearing or Rehearing en Banc* at 5 (filed Nov. 17, 2008 in *North Carolina v. EPA*, Case No. 05–1224, DC Cir.). The process at EPA of developing a proposal that will undergo notice and comment and result in a final replacement rule is ongoing. In the meantime, consistent with the Court's orders, EPA is implementing CAIR by approving State SIP revisions that are consistent with CAIR (such as the provisions setting State SO₂ and NO_x budgets for the CAIR trading programs) in order to “temporarily

¹ The Court also determined that the CAIR trading programs were unlawful (*id.* at 906–8) and that the treatment of title IV allowances in CAIR was unlawful (*id.* at 921–23). For the same reasons that EPA is approving the provisions of Maryland's SIP revision that use the SO₂ and NO_x budgets set in CAIR, EPA is also approving, as discussed below, Maryland's SIP revision to the extent the SIP revision adopts the CAIR trading programs, including the provisions addressing applicability, allowance allocations, and use of title IV allowances.

preserve” the environmental benefits achievable under the CAIR trading programs.

B. CAIR Cap-and-Trade Programs

The CAIR NO_x annual and ozone-season model trading rules both largely mirror the structure of the NO_x SIP Call model trading rule in 40 CFR Part 96, subparts A through I. While the provisions of the NO_x annual and ozone-season model rules are similar, there are some differences. For example, the NO_x annual model rule (but not the NO_x ozone season model rule) provides for a CSP, which is discussed below and under which allowances may be awarded for early reductions of NO_x annual emissions. As a further example, the NO_x ozone season model rule reflects the fact that the CAIR NO_x ozone season trading program replaces the NO_x SIP Call trading program after the 2008 ozone season and is coordinated with the NO_x SIP Call program. The NO_x ozone season model rule provides incentives for early emissions reductions by allowing banked, pre-2009 NO_x SIP Call allowances to be used for compliance in the CAIR NO_x ozone-season trading program. In addition, States have the option of continuing to meet their NO_x SIP Call requirement by participating in the CAIR NO_x ozone season trading program and including all their NO_x SIP Call trading sources in that program.

The provisions of the CAIR SO₂ model rule are also similar to the provisions of the NO_x annual and ozone season model rules. However, the SO₂ model rule is coordinated with the ongoing Acid Rain SO₂ cap-and-trade program under CAA title IV. The SO₂ model rule uses the title IV allowances for compliance, with each allowance allocated for 2010–2014 authorizing only 0.50 ton of emissions and each allowance allocated for 2015 and thereafter authorizing only 0.35 ton of emissions. Banked title IV allowances allocated for years before 2010 can be used at any time in the CAIR SO₂ cap-and-trade program, with each such allowance authorizing one ton of emissions. Title IV allowances are to be freely transferable among sources covered by the Acid Rain Program and sources covered by the CAIR SO₂ cap-and-trade program.

EPA also used the CAIR model trading rules as the basis for the trading programs in the CAIR FIPs. The CAIR FIP trading rules are virtually identical to the CAIR model trading rules, with changes made to account for Federal rather than State implementation. The CAIR model SO₂, NO_x annual, and NO_x ozone season trading rules and the

respective CAIR FIP trading rules are designed to work together as integrated SO₂, NO_x annual, and NO_x ozone season trading programs.

In the SIP revisions, Maryland choose to implement its CAIR budgets by requiring EGUs to participate in EPA-administered cap-and-trade programs for SO₂, NO_x annual, and NO_x ozone season emissions. Maryland has adopted a full CAIR SIP revision that incorporates by reference the CAIR model cap and trade rules for SO₂, NO_x annual, and NO_x ozone season emissions, with modifications as allowed under the flexibilities of the program.

C. Applicability Provisions for Non-Electric Generating Units (Non-EGU) Sources

In general, the CAIR model trading rules apply to any stationary, fossil-fuel-fired boiler or stationary, fossil-fuel-fired combustion turbine serving at any time, since the later of November 15, 1990 or the start-up of the unit's combustion chamber, a generator with nameplate capacity of more than 25 MWe producing electricity for sale. Maryland's CAIR rules incorporate by reference the CAIR model trading rule applicability described in 40 CFR 96.104, 96.204 and 96.304.

States have the option of bringing in, for the CAIR NO_x ozone season program only, those units in the State's NO_x SIP Call trading program that are not EGUs as defined under CAIR. EPA advises States exercising this option to add the applicability provisions in the State's NO_x SIP Call trading rule for non-EGUs to the applicability provisions in 40 CFR 96.304 in order to include in the CAIR NO_x ozone season trading program all units required to be in the State's NO_x SIP Call trading program that are not already included under 40 CFR 96.304. Under this option, the CAIR NO_x ozone season program must cover all large industrial boilers and combustion turbines, as well as any small EGUs (i.e. units serving a generator with a nameplate capacity of 25 MWe or less) that the State currently requires to be in the NO_x SIP Call trading program.

Maryland has chosen not to expand the applicability provisions of the CAIR NO_x ozone season trading program to include all non-EGUs in the State's NO_x SIP Call trading program. Therefore, Maryland must, in a separate submission, demonstrate that it is meeting 40 CFR 51.121(f)(2) and (h)(4), which sets forth requirements for control measures or other regulatory requirement(s) to demonstrate that the State will comply with its NO_x budget as established for the 2007 ozone

season. Continuous emissions monitoring (CEMS) in accordance with 40 CFR Part 75 is required.

D. NO_x Allowance Allocations

Under the NO_x allowance allocation methodology in the CAIR model trading rules and in the CAIR FIP, NO_x annual and ozone season allowances are allocated to units that have operated for five years, based on heat input data from a three-year period that are adjusted for fuel type by using fuel factors of 1.0 for coal, 0.6 for oil, and 0.4 for other fuels. The CAIR model trading rules and the CAIR FIP also provide a new unit set-aside from which units without five years of operation are allocated allowances based on the units' prior year emissions.

States may establish in their SIP submissions a different NO_x allowance allocation methodology that will be used to allocate allowances to sources in the States if certain requirements are met concerning the timing of submission of units' allocations to the Administrator for recordation and the total amount of allowances allocated for each control period. In adopting alternative NO_x allowance allocation methodologies, States have flexibility with regard to:

1. The cost to recipients of the allowances, which may be distributed for free or auctioned;
2. The frequency of allocations;
3. The basis for allocating allowances, which may be distributed, for example, based on historical heat input or electric and thermal output; and
4. The use of allowance set-asides and, if used, their size.

Maryland has chosen to incorporate by reference the allowance allocation methodology of the model rule for both the NO_x annual and NO_x ozone season trading programs, with the exception of the provisions pertaining to the distribution of allowances from the set aside pool under 96.142(d). Maryland has established a set-aside of five percent of the NO_x ozone season allowance budget for each control period during 2009 through 2014, and a set aside of five percent of the NO_x Annual allowance budget for each control period 2009 through 2014.² The

² Maryland anticipated that its CAIR SIP would be in effect in time to issue allocations from its set aside pool starting in 2009. Because the CAIR FIP is still in effect in Maryland, allocations from the new unit set aside have been allocated under the FIP for 2009. As a consequence, EPA is not approving the allowance allocations for new units, renewable energy projects and consumers of electric energy contained in Maryland's CAIR SIP for 2009. Those allocations will be issued in accordance with Maryland's CAIR SIP starting in 2010, contingent upon finalization of this proposed action.

allowances from these set-aside pools will be distributed to new affected units, with any remaining allowances to be distributed to renewable energy projects and consumers of electric power in the State. At the end of each control period, 20 percent of unused allowances from the set asides will be transferred to the State's retirement account in the CAIR allowance tracking system, and 80 percent of unused allowances will be returned to the affected trading sources listed in COMAR 26.11.28.08.

E. Allocation of NO_x Allowances From Compliance Supplement Pool

The CAIR establishes a CSP to provide an incentive for early reductions in NO_x annual emissions. The CSP consists of 200,000 CAIR NO_x annual allowances of vintage 2009 for the entire CAIR region, and a State's share of the CSP is based upon the projected magnitude of the emission reductions required by CAIR in that State. States may distribute CSP allowances, one allowance for each ton of early reduction, to sources that make NO_x reductions during 2007 or 2008 beyond what is required by any applicable State or Federal emission limitation. States also may distribute CSP allowances based upon a demonstration of need for an extension of the 2009 deadline for implementing emission controls. The CSP for the State of Maryland is comprised of 4,670 allowances.

The CAIR annual NO_x model trading rule establishes specific methodologies for allocations of CSP allowances. States may choose an allowed, alternative CSP allocation methodology to be used to allocate CSP allowances to sources in the States.

The deadline for requesting the CSP allowances was May 1, 2009, therefore, the CSP allowances will be distributed under the provisions of the CAIR FIP for the sources in the State of Maryland. EPA is, therefore, not approving the CSP allocation contained in Maryland's CAIR SIP.

F. Individual Opt-in Units

The opt-in provisions of the CAIR SIP model trading rules allow certain non-EGUs (i.e., boilers, combustion turbines, and other stationary fossil-fuel-fired devices) that do not meet the applicability criteria for a CAIR trading program to participate voluntarily in (i.e., opt into) the CAIR trading program. A non-EGU may opt into one or more of the CAIR trading programs. In order to qualify to opt into a CAIR trading program, a unit must vent all emissions through a stack and be able to meet monitoring, recordkeeping, and

recording requirements of 40 CFR part 75. The owners and operators seeking to opt a unit into a CAIR trading program must apply for a CAIR opt-in permit. If the unit is issued a CAIR opt-in permit, the unit becomes a CAIR unit, is allocated allowances, and must meet the same allowance-holding and emissions monitoring and reporting requirements as other units subject to the CAIR trading program. The opt-in provisions provide for two methodologies for allocating allowances for opt-in units, one methodology that applies to opt-in units in general and a second methodology that allocates allowances only to opt-in units that the owners and operators intend to repower before January 1, 2015.

States have several options concerning the opt-in provisions. States may adopt the CAIR opt-in provisions entirely or may adopt them but exclude one of the methodologies for allocating allowances. States may also decline to adopt the opt-in provisions at all. Maryland has chosen to incorporate by reference the provisions of the model rule pertaining to opt-ins for the NO_x annual, NO_x ozone season, and SO₂ annual trading program.

G. Clarification of Other Provisions in Maryland's CAIR Rule

1. 2009 CAIR NO_x Annual and CAIR NO_x Ozone Season Allowances

The tables in COMAR 26.11.28.08 specify allowances for 2009–2014. Maryland anticipated that its CAIR SIP would be in effect in time to issue the allowances for this allocation period. However, Maryland sources are currently subject to the FIP, therefore allocations for 2009 have been distributed under the FIP provisions. As a consequence, EPA is not approving Maryland's 2009 CAIR NO_x Annual and CAIR NO_x Ozone Season allowance allocation contained in the Maryland CAIR SIP. The tables in COMAR 26.11.28.08 will be used starting in 2010, contingent on finalization of this proposed action.

2. Deadline for Requests for Allowances From the Set Aside Pool

COMAR 26.11.28.04A(1) sets "March 15 of the year following the year the unit began commercial operation * * *" as the date by which the owner or operator of a "new affected trading unit" may request allowances from the set aside pool. Because this schedule is different from the schedule in 40 CFR 96.142(c)(2) and 40 CFR 96.342(c)(2) which are incorporated by reference, EPA clarifies that the schedule

established in COMAR 26.11.28.04A(1) applies to sources in Maryland.

3. Schedule for Recording Set Aside Pool Allowances

COMAR 26.11.28.05G establishes a July 1 deadline for EPA to transfer NO_x allowances for renewable energy projects to a general account for the owner or operator of a renewable energy project. Although not addressed in this provision, the owner or operator of the renewable energy project is responsible for establishing the general account in accordance with 40 CFR 96.151 and 96.152, or 96.351 and 96.352. Also, these accounts will need to be established sufficiently in advance of the July 1 deadline to ensure timely allowance transfers to the appropriate general accounts. EPA notes that the allocation information from the State must be received approximately two weeks before the deadline to give the Agency time to process the information and meet the July 1 deadline for recording the allowances.

4. Interaction of Maryland's CAIR Rule With COMAR 26.11.27

COMAR 26.11.27, entitled "Emission Limitations for Power Plants," was adopted by Maryland to implement the emission reductions required by the State's Healthy Air Act (Annotated Code of Maryland Environment Title 2 Ambient Air Quality Control Subtitle 10 Health Air Act Sections 2–1001–2–1005), and sets emissions caps for fifteen of the largest coal-fired power plants in the State. All of these sources are also subject to CAIR.

COMAR 26.11.27.03B(7)(a)(iii) requires that, if a unit exceeds its Ozone Season NO_x tonnage limitation as a result of certain specified actions and alerts invoked by the independent system operator PJM Interconnection, LLC (PJM), the unit is not in violation if, among other things, the owner or operator surrenders one "ozone season NO_x allowances" to the State's surrender account for every ton of NO_x emitted in excess of the cap. EPA interprets the reference to "ozone season NO_x allowance" to mean CAIR NO_x ozone season allowances because the NO_x Budget Trading Program was discontinued in 2008, and all banked ozone season NO_x allowances from that program have been converted to CAIR NO_x ozone season allowances.

An owner or operator is required to surrender CAIR NO_x ozone season allowances under this provision only if PJM invokes certain specified actions and alerts and the unit's emissions increase as a result. Since 1999, PJM has invoked these actions and alerts

relatively few times (generally a few times a year but up to 22 times in one year) and only for relatively short periods of time (generally about 24 hours and only once slightly exceeding 48 hours). However, the majority of these actions and alerts involve load reductions and so are not likely to result in increased emissions that would force a facility to exceed its Ozone Season NO_x tonnage limitation. Therefore, EPA believes that the potential for CAIR allowances to be used outside of the CAIR trading programs is very limited and will not interfere to any significant extent with the CAIR trading programs.

VI. Proposed Action

EPA is proposing to approve, as interpreted and clarified herein, Maryland's full CAIR SIP revisions submitted on October 24, 2007, and June 30, 2008, except for the 2009 NO_x ozone season and NO_x annual allocations, the 2009 set aside allocations and the CSP allocations. Under the SIP revisions, Maryland is choosing to participate in the EPA-administered CAIR cap-and-trade programs for SO₂, NO_x annual, and NO_x ozone season emissions. The SIP revisions, as interpreted and clarified herein, meets the applicable requirements of CAIR, which are set forth in 40 CFR 51.123(o) and (aa), with regard to NO_x annual and NO_x ozone season emissions, and 40 CFR 51.124(o), with regard to SO₂ emissions. Upon final approval, the CAIR FIP for Maryland will be automatically withdrawn.

VII. Statutory and Executive Order Reviews

Under the Clean Air Act, 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 Clean Air Act. Accordingly, this action merely approves State law as meeting Federal requirements and does not impose additional requirements beyond those imposed by State law. For that reason, this action:

- Is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);

- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; 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 proposed approval of Maryland's CAIR rule, with certain exceptions, 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.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides.

Dated: August 10, 2009.

William C. Early,

Acting Regional Administrator, Region III.

[FR Doc. E9-20047 Filed 8-19-09; 8:45 am]

BILLING CODE 6560-50-P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 09-1805; MB Docket No. 09-147; RM-11554]

Television Broadcasting Services; New Orleans, LA

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission has before it a petition for rulemaking filed by Louisiana Media Company, LLC ("Louisiana Media"), the licensee of station WVUE-DT, channel 8, New Orleans, Louisiana. Louisiana Media requests the substitution of its pre-transition digital channel 29 for its post-transition digital channel 8 at New Orleans.

DATES: Comments must be filed on or before September 4, 2009, and reply comments on or before September 14, 2009.

ADDRESSES: Federal Communications Commission, Office of the Secretary, 445 12th Street, SW., Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve counsel for petitioner as follows: Mace J. Rosenstein, Esq., Covington & Burling LLP, 1201 Pennsylvania Avenue, NW., Washington, DC 20004.

FOR FURTHER INFORMATION CONTACT:

Joyce L. Bernstein,
joyce.bernstein@fcc.gov, Media Bureau,
(202) 418-1600.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MB Docket No. 09-147, adopted August 12, 2009, and released August 14, 2009. The full text of this document is available for public inspection and copying during normal business hours in the FCC's Reference Information Center at Portals II, CY-A257, 445 12th Street, SW., Washington, DC 20554. This document will also be available via ECFS (<http://www.fcc.gov/cgb/ecfs/>). (Documents will be available electronically in ASCII, Word 97, and/or Adobe Acrobat.) This document may be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc., 445 12th Street, SW., Room CY-B402, Washington, DC 20554, telephone 1-800-478-3160 or via e-mail <http://www.BCPIWEB.com>. To request this document in accessible formats (computer diskettes, large print, audio recording, and Braille), send an e-mail to fcc504@fcc.gov or call the Commission's Consumer and

Governmental Affairs Bureau at (202) 418-0530 (voice), (202) 418-0432 (TTY). This document does not contain proposed information collection requirements subject to the Paperwork Reduction Act of 1995, Public Law 104-13. In addition, therefore, it does not contain any proposed information collection burden "for small business concerns with fewer than 25 employees," pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107-198, *see* 44 U.S.C. 3506(c)(4).

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Television, Television broadcasting.

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR part 73 as follows:

PART 73—RADIO BROADCAST SERVICES

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

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

§ 73.622 [Amended]

2. Section 73.622(i), the Post-Transition Table of DTV Allotments under Louisiana, is amended by adding DTV channel 29 and removing DTV channel 8 at New Orleans.

Federal Communications Commission.

Clay C. Pendarvis,

Associate Chief, Video Division, Media Bureau.

[FR Doc. E9-20029 Filed 8-19-09; 8:45 am]

BILLING CODE 6712-01-P

DEPARTMENT OF DEFENSE**GENERAL SERVICES
ADMINISTRATION****NATIONAL AERONAUTICS AND
SPACE ADMINISTRATION****48 CFR Parts 4, 42, and 52**[FAR Case 2008–020; Docket 2009–0031;
Sequence 1]

RIN 9000–AL43

**Federal Acquisition Regulation; FAR
Case 2008–020, Contract Closeout****AGENCIES:** Department of Defense (DoD),
General Services Administration (GSA),
and National Aeronautics and Space
Administration (NASA).**ACTION:** Proposed rule.**SUMMARY:** The Civilian Agency
Acquisition Council and the Defense
Acquisition Regulations Council
(Councils) are proposing to amend the
Federal Acquisition Regulation (FAR) to
revise procedures for closing out
contract files. This case revises
procedures for clearing final patent
reports and quick-closeout procedure,
and sets forth a description of an
adequate final indirect cost rate
proposal and supporting data.**DATES:** Interested parties should submit
written comments to the Regulatory
Secretariat on or before October 19,
2009 to be considered in the
formulation of a final rule.**ADDRESSES:** Submit comments
identified by FAR case 2008–020 by any
of the following methods:

- Regulations.gov: <http://www.regulations.gov>.

Submit comments via the Federal
eRulemaking portal by inputting “FAR
Case 2008–020” into the field
“Keyword”. Select the link that
corresponds with FAR Case 2008–020.
Follow the instructions provided to
submit your comment. Please include
your name, company name (if any), and
“FAR Case 2008–020” on your attached
document.

- Fax: 202–501–4067.

- Mail: General Services
Administration, Regulatory Secretariat
(VPR), 1800 F Street, NW., Room 4041,
ATTN: Hada Flowers, Washington, DC
20405.

Instructions: Please submit comments
only and cite FAR case 2008–020 in all
correspondence related to this case. All
comments received will be posted
without change to <http://www.regulations.gov>, including any
personal and/or business confidential
information provided.

FOR FURTHER INFORMATION CONTACT: Ms.
Jeritta A. Parnell, Procurement Analyst,
at (202) 501–4082 for clarification of
content. For information pertaining to
status or publication schedules, contact
the Regulatory Secretariat at (202) 501–
4755. Please cite FAR case 2008–020.

SUPPLEMENTARY INFORMATION:**A. Background**

In May 2007, the Director of Defense
Procurement and Acquisition Policy
(DPAP) completed an assessment of
public input on systemic issues related
to contract closeout (72 FR 28654, dated
May 22, 2007). As a result, changes were
proposed to the Defense Federal
Acquisition Regulation Supplement
(DFARS) and the FAR to improve
contract closeout.

The Councils are proposing the
following FAR revisions—

(1) Addition of language in FAR
4.804–5 setting forth the timeframe for
clearing a required final patent report
after receipt and procedures allowing
the contracting officer to proceed with
contract closeout when a required final
patent report is not received;

(2) Addition of language in FAR
42.705–1 for the cognizant auditor to
determine adequacy of the contractor’s
proposal for audit and language
referencing the clause at FAR 52.216–
7(d)(2);

(3) Addition of language in FAR
42.708 increasing the dollar threshold
and revising the percentage limitation in
the existing quick-closeout criteria;

(4) Addition of language in FAR
52.216–7 setting forth a description of
what data shall be submitted in an
adequate final indirect cost rate
proposal, (contractors may refer to the
Model Incurred Cost Proposal in
Chapter 6 of the Defense Contract Audit
Agency Pamphlet No. 7641.90,
Information for Contractors, available at
<http://www.dcaa.mil>), what
supplemental data, required for audit,
may also be submitted with the
proposal, and a requirement for the
contractor to update cumulative costs
claimed and billed within 60 days of
rate settlement;

(5) Addition of language in FAR
52.216–8 for the contracting officer to
withhold fixed fee to protect the
Government’s interest and to encourage
the timely submission of an adequate
final indirect cost rate proposal;

(6) Addition of language in FAR
52.216–9 for the contracting officer to
withhold fixed fee-construction to
protect the Government’s interest and to
encourage the timely submission of an
adequate final indirect cost rate
proposal; and

(7) Addition of language in FAR
52.216–10 for the contracting officer to
withhold incentive fee to protect the
Government’s interest and to encourage
the timely submission of an adequate
final indirect cost rate proposal.

This is not a significant regulatory
action and, therefore, was not subject to
review under Section 6(b) of Executive
Order 12866, Regulatory Planning and
Review, dated September 30, 1993. This
rule is not a major rule under 5 U.S.C.
804.

B. Regulatory Flexibility Act

The Councils do not expect this
proposed rule to have a significant
economic impact on a substantial
number of small entities within the
meaning of the Regulatory Flexibility
Act, 5 U.S.C. 601, *et seq.*, because the
rule does not impose any additional
requirements on small businesses. The
changes to FAR Parts 4 and 42 clarify
and streamline closeout procedures. The
changes to the clauses at 52.216–8,
52.216–9, and 52.216–10 allow for a
reserve to be set-aside to protect the
Government’s interest. Contracting
officers already may set aside a reserve
under current FAR procedures. An
Initial Regulatory Flexibility Analysis
has, therefore, not been performed. We
invite comments from small businesses
and other interested parties. The
Councils will consider comments from
small entities concerning the affected
FAR Parts 4, 42, and 52 in accordance
with 5 U.S.C. 610. Interested parties
must submit such comments separately
and should cite 5 U.S.C. 601, *et seq.*
(FAR case 2008–020), in
correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act does
apply; however, these changes to the
FAR do not impose additional
information collection requirements to
the paperwork burden previously
approved under OMB Control Numbers
9000–0067 and 9000–0069.

**List of Subjects in 48 CFR Parts 4, 42,
and 52**

Government procurement.

Dated: August 14, 2009.

Al Matera,

Director, Office of Acquisition Policy.

Therefore, DoD, GSA, and NASA
propose amending 48 CFR parts 4, 42,
and 52 as set forth below:

1. The authority citation for 48 CFR
parts 4, 42, and 52 continues to read as
follows:

Authority: 40 U.S.C. 121(c); 10 U.S.C.
chapter 137; and 42 U.S.C. 2473(c).

PART 4—ADMINISTRATIVE MATTERS

2. Amend section 4.804–5 by revising paragraph (a)(2) to read as follows:

4.804–5 Procedures for closing out contract files.

(a) * * *

(2) *Final patent report is cleared.* If a final patent report is required, the contracting officer may proceed with contract closeout in accordance with the following procedures, or as otherwise prescribed by agency procedures:

- (i) Final patent reports should be cleared within 60 days of receipt.
- (ii) If the final patent report is not received, the contracting officer shall notify the contractor of the contractor's obligations and the Government's rights under the applicable patent rights clause. If the contractor fails to respond to this notification, the contracting officer may proceed with contract closeout upon consultation with the agency legal counsel responsible for patent matters regarding the contractor's failure to respond.

* * * * *

PART 42—CONTRACT ADMINISTRATION AND AUDIT SERVICES

3. Amend section 42.705–1 by revising paragraph (b)(1) to read as follows:

42.705–1 Contracting officer determination procedure.

* * * * *

(b) *Procedures.* (1) In accordance with the Allowable Cost and Payment clause at 52.216–7, the contractor shall submit to the contracting officer (or cognizant Federal agency official) and to the cognizant auditor an adequate final indirect cost rate proposal.

(i) The required content of the proposal and supporting data will vary depending on such factors as business type, size, and accounting system capabilities. The contractor, contracting officer, and auditor must work together to make the proposal, audit, and negotiation process as efficient as possible. Accordingly, each contractor shall submit an adequate proposal to the contracting officer (or cognizant Federal agency official) and auditor within the 6-month period following the expiration of each of its fiscal years. The contracting officer may grant reasonable extensions, for exceptional circumstances only, if requested in writing by the contractor.

(ii) The cognizant auditor will make a written determination on the adequacy of the contractor's proposal for audit.

(iii) The proposal must be supported with adequate supporting data, which may be required subsequent to proposal submission.

(iv) See the clause at FAR 52.216–7(d)(2) for the description of an adequate final indirect cost rate proposal and supporting data).

* * * * *

4. Amend section 42.708 by revising the introductory text of paragraph (a), (a)(1), and (a)(2) to read as follows:

42.708 Quick-closeout procedure.

(a) The contracting officer responsible for contract closeout shall negotiate the settlement of indirect and direct costs for a specific contract, task order, or delivery order to be closed, in advance of the determination of final direct costs and indirect rates, if—

- (1) The contract, task order, or delivery order is physically complete;
- (2) The amount of unsettled costs to be allocated to the contract, task order, or delivery order is relatively insignificant. Cost amounts will be considered relatively insignificant when—

(i) The total unsettled indirect and direct costs to be allocated to any one contract do not exceed \$4,000,000 and do not exceed 20 percent of the total contract, task order, or delivery order amount; and

(ii) The contracting officer performs a risk assessment and determines that the use of the quick-closeout procedure is appropriate. The risk assessment shall include consideration of the contractor's accounting, estimating, and purchasing systems; direct and indirect costs; other concerns of the cognizant contract auditors; and any other pertinent information.

* * * * *

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

5. Amend section 52.216–7 by revising the date of the clause; adding a sentence to the end of paragraph (d)(2)(i); adding paragraphs (d)(2)(iii) through (d)(2)(v); and adding two sentences to the end of paragraph (d)(5) to read as follows:

52.216–7 Allowable Cost and Payment.

* * * * *

ALLOWABLE COST AND PAYMENT (DATE)

* * * * *

(d) * * *

(2)(i) * * * See 42.705–1(b)(1).

* * * * *

(iii) An adequate indirect cost rate proposal shall include the following data unless otherwise specified by the cognizant Federal agency official (CFAO):

(A) Summary of claimed indirect expense rates.

(B) General and Administrative (G&A) expenses (final indirect cost pool).

(C) Overhead expenses (final indirect cost pool).

(D) Occupancy expenses (intermediate indirect cost pool).

(E) Claimed allocation bases.

(F) Facilities capital cost of money factors computation.

(G) Reconciliation of books of account and claimed direct costs.

(H) Schedule of direct costs by contract/subcontract and indirect expense applied at claimed rates, as well as Schedule H–1, Government participation percentages.

(I) Schedule of cumulative direct and indirect costs claimed and billed.

(J) Subcontract information.

(K) Summary of hours and amounts on T&M/labor hour contracts.

(L) Reconciliation of total payroll to total labor distribution.

(M) Listing of decisions/agreements/approvals and description of accounting/organizational changes.

(N) Certificate of final indirect costs.

(O) Contract closing information for contracts completed in this fiscal year.

(iv) The following supplemental information, which will be required during the audit process, may also be submitted with the contractor's final indirect cost rate proposal:

(A) Comparative analysis of indirect expense pools detailed by account with prior fiscal year and budgetary data.

(B) General Organization and Executive compensation information for top five executives.

(C) List of ACOs and PCOs for each flexibly priced contract.

(D) Identification of and information on prime contracts under which the contractor performs flexibly priced effort as a subcontractor.

(E) List of work sites and the number of employees assigned to each site (identify the number of direct and indirect employees).

(F) Description of accounting system.

(G) Procedures for identifying and handling unallowable costs.

(H) Certified financial statements or other financial data (e.g., trial balance, compilation, review, etc.).

(I) Management letter from outside CPAs concerning any internal control weaknesses.

(J) Actions that have been and/or will be implemented to correct the weaknesses described in paragraph (d)(2)(iv)(I) of this section.

(K) List of internal audit reports issued in this fiscal year.

(L) Annual internal audit plan of scheduled audits to be performed in this fiscal year.

(M) Federal and state income tax returns.

(N) Securities and Exchange Commission 10–K annual report.

(O) Minutes from board of directors meetings.

(P) Listing of delay and disruptions and termination claims submitted which contain costs relating to the subject fiscal year.

(Q) *Contract briefings.* Contract briefings generally include a synopsis of all pertinent

contract provisions, such as: contract type, contract amount, product or service(s) to be provided, applicable Cost Principles, contract performance period, rate ceilings, advance approval requirements, pre-contract cost allowability limitations, and billing limitations. A typical format for the briefings is shown at the end of this model. A contractor need not use the example form if the information is already generated and available within its automated accounting or billing systems.

(v) The Contractor shall update the schedule of cumulative direct and indirect costs claimed and billed, as required in paragraph (d) above, within 60 days after settlement of final indirect cost rates.

* * * * *
(5) * * * The completion invoice or voucher shall include settled subcontract amounts and rates. The prime contractor is responsible for settling subcontractor amounts and rates included in the completion invoice or voucher and providing status of subcontractor audits to the contracting officer upon request.

* * * * *
6. Amend section 52.216-8 by revising the introductory paragraph, the date of the clause, and paragraph (b) to read as follows:

52.216-8 Fixed Fee.

As prescribed in 16.307(b), insert the following clause:

FIXED FEE (DATE)

* * * * *

(b) Payment of the fixed fee shall be made as specified in the Schedule; provided that the Contracting Officer withholds a reserve not to exceed 15 percent of the total fixed fee or \$100,000, whichever is less, to protect the Government's interest. The Contracting Officer shall release 75 percent of all fee withholds under this contract after receipt of an adequate certified final indirect cost rate proposal covering the year of physical

completion of this contract, provided the Contractor has satisfied all other contract terms and conditions, including the submission of the final patent and royalty reports, and is not delinquent in submitting final vouchers on prior years' settlements. The Contracting Officer may release up to 90 percent of the fee withholds under this contract based on the Contractor's past performance related to the submission and settlement of final indirect cost rate proposals.

(End of clause)

7. Amend section 52.216-9 by revising the introductory paragraph, the date of the clause, and paragraph (c) to read as follows:

52.216-9 Fixed Fee—Construction.

As prescribed in 16.307(c), insert the following clause:

FIXED FEE—CONSTRUCTION (DATE)

* * * * *

(c) The Contracting Officer shall withhold a reserve not to exceed 15 percent of the total fixed fee or \$100,000, whichever is less, to protect the Government's interest. The Contracting Officer shall release 75 percent of all fee withholds under this contract after receipt of an adequate certified final indirect cost rate proposal covering the year of physical completion of this contract, provided the Contractor has satisfied all other contract terms and conditions, including the submission of the final patent and royalty reports, and is not delinquent in submitting final vouchers on prior years' settlements. The Contracting Officer may release up to 90 percent of the fee withholds under this contract based on the Contractor's past performance related to the submission and settlement of final indirect cost rate proposals.

(End of clause)

8. Amend section 52.216-10 by revising the introductory paragraph, the

date of the clause, and paragraph (c) to read as follows:

52.216-10 Incentive Fee.

As prescribed in 16.307(d), insert the following clause:

INCENTIVE FEE (DATE)

* * * * *

(c) *Withholding of payment.* (1) Normally, the Government shall pay the fee to the Contractor as specified in the Schedule. However, when the Contracting Officer considers that performance or cost indicates that the Contractor will not achieve target, the Government shall pay on the basis of an appropriate lesser fee. When the Contractor demonstrates that performance or cost clearly indicates that the Contractor will earn a fee significantly above the target fee, the Government may, at the sole discretion of the Contracting Officer, pay on the basis of an appropriate higher fee.

(2) Payment of the incentive fee shall be made as specified in the Schedule; provided that the Contracting Officer withholds a reserve not to exceed 15 percent of the total incentive fee or \$100,000, whichever is less, to protect the Government's interest. The Contracting Officer shall release 75 percent of all fee withholds under this contract after receipt of an adequate certified final indirect cost rate proposal covering the year of physical completion of this contract, provided the Contractor has satisfied all other contract terms and conditions, including the submission of the final patent and royalty reports, and is not delinquent in submitting final vouchers on prior years' settlements. The Contracting Officer may release up to 90 percent of the fee withholds under this contract based on the Contractor's past performance related to the submission and settlement of final indirect cost rate proposals.

* * * * *

[FR Doc. E9-19937 Filed 8-19-09; 8:45 am]

BILLING CODE 6820-EP-S

Notices

Federal Register

Vol. 74, No. 160

Thursday, August 20, 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

Food and Nutrition Service

Agency Information Collection Activities: Proposed Collection; Comment Request—Federal Claims Collection Methods for Supplemental Nutrition Assistance Program Recipient Claims

AGENCY: Food and Nutrition Service, USDA.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice invites the general public and other public agencies to comment on proposed information collections. This collection is a revision of a currently approved collection associated with initiating and conducting Federal collection actions against households with delinquent Supplemental Nutrition Assistance Program (SNAP, formerly known as the Food Stamp Program) recipient debts.

DATES: Written comments must be submitted on or before October 19, 2009.

ADDRESSES: Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate, automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Send comments to Jane Duffield, Chief, State Administration Branch, Supplemental Nutrition Assistance Program, Food and Nutrition Service, USDA, 3101 Park Center Drive, Room 818, Alexandria, Virginia 22302. Comments may also be submitted via fax to the attention of Jane Duffield at 703-605-0795. Comments will also be accepted through the Federal eRulemaking Portal. Go to <http://www.regulations.gov> and follow the online instructions for submitting comments electronically.

All written comments will be open for public inspection at the office of the Food and Nutrition Service, U.S. Department of Agriculture, 3101 Park Center Drive, Alexandria, Virginia 22302, Room 818.

All comments will be summarized and included in the request for Office of Management and Budget approval of the

information collection. All comments will become a matter of public record.

FOR FURTHER INFORMATION CONTACT: Michael Rowe at (703) 305-2480.

SUPPLEMENTARY INFORMATION:

Title: Federal Claims Collection Methods for Supplemental Nutrition Assistance Program Recipient Claims.

OMB Number: 0584-0446.

Form Number: None.

Expiration Date: December 31, 2009.

Type of Request: Revision of a currently approved collection.

Abstract: Section 13(b) of the Food and Nutrition Act of 2008, as amended (7 U.S.C. 2022(b)), and Supplemental Nutrition Assistance Program (SNAP) regulations at 7 CFR 273.18 require State agencies to refer delinquent debtors for SNAP benefit over-issuance to the U.S. Department of the Treasury for collection. The Debt Collection Improvement Act of 1996, 31 U.S.C. 3701, *et seq.*, requires these debts to be referred to Treasury for collection when they are 180 days or more delinquent. Through the Treasury Offset Program (TOP), 31 CFR Part 285, payments such as Federal income tax refunds, Federal salaries and other Federal payments payable to these delinquent debtors will be offset and the amount applied to the delinquent debt. TOP places a reporting burden on State agencies and Individuals/Households (former SNAP recipients) who owe delinquent debts as detailed in the following charts.

We are basing our estimate on an average of the number of records for claims the States sent to TOP for calendar years 2006, 2007 and 2008.

TABLE 1—REPORTING FOR INDIVIDUALS OR HOUSEHOLDS

Reporting burden per activity	(b) Form No.	(c) Number of respondents	(d) Number of responses per respondent	(e) Estimated total annual responses (cxd)	(f) Hours per response	(g) Total burden hours (exf)
Reading State issued notice	N/A	253,671	1	253,671	.0835	21,181.528
Reading FNS issued letter to Federal employees	N/A	3,000	1	3,000	.0835	250.5
Phone inquiries and informal appeals for State notice	N/A	17,757	1	17,757	.25	4,439.25
Phone Inquires and informal appeals for FNS letter	N/A	900	1	900	.25	225
Formal appeals to State	N/A	1,522	1	1,522	.5	761
Formal appeals to FNS	N/A	20	1	20	.5	10
Summary of Reporting Burden .....	.....	¹ 253,671	1.09	276,870	.....	26,867.278

¹ I/H counted once.

TABLE 2—REPORTING FOR STATE AGENCIES

Reporting burden per activity	(b) Form No.	(c) Number of respondents	(d) Number of responses per respondent	(e) Estimated total annual responses (c×d)	(f) Hours per response	(g) Total burden hours (e×f)
State agency notice production	N/A	53	4,786.2452	253, 671	.0167	4,236.3057
Responding to phone inquiries and informal appeals for State notice ...	N/A	153	335.03773	17,757	.25	4,439.25
Responding to formal appeals to State	N/A	53	28.716981	1,522	.5	761
Providing documents for formal ap- peals to FNS	N/A	53	0.3773584	20	.5	10
Submit yearly certification letter	N/A	53	1	53	.5	26.5
System accountability file	N/A	53	1	53	11.5	609.5
Address file	N/A	53	8	424	1.6346	693.0704
Match/No match report	N/A	53	8	424	6.5	2,756
Testing New system	N/A	5	1	5	7	35
State agency profile	N/A	53	1	53	0.25	13.25
Weekly Files	N/A	53	52	2,756	1.5	4,134
Weekly files—Post data	N/A	53	52	2,756	1.5	4,134
Summary of Reporting Burden .....	.....	153	5,273.4716	279,494	.....	21,847.875

¹ States counted once.

The current reporting burden for individuals/households and State governments is 380,053 respondents and 68,921 hours. The proposed reporting burden, totaled from Tables 1 and 2, is 253,724 respondents and 48,715.153 hours. This reduction of

20,205.847 reporting hours is due to a combination of fewer notices being mailed by States and acted on by individuals/households; a decrease in required documents and activities for State governments; and, changes due to agency adjustments.

TOP places a recordkeeping burden on State governments which is contained in the following Table 3. There is no recordkeeping burden for individuals and households.

TABLE 3—RECORDKEEPING FOR STATE AGENCIES

Recordkeeping burden per activity	(b) Form No.	(c) Number of respondents	(d) Number of re- sponses per respondent	(e) Estimated total annual responses (c×d)	(f) Hours per response	(g) Total burden hours (e×f)
Weekly Files	N/A	53	52	2,756	0.25	689
Summary of Recordkeeping Burden .....	.....	153	52	2,756	.....	689

¹ States counted once.

The current recordkeeping burden is based on 53 respondents and 530 burden hours. The proposed burden is for 53 respondents and 689 hours. This represents an increase of 159 recordkeeping hours due to the way that responses are considered with a corresponding reduction in the time per response.

Dated: August 11, 2009.

Julia Paradis,

Administrator, Food and Nutrition Service.
[FR Doc. E9-19721 Filed 8-19-09; 8:45 am]

BILLING CODE 3410-30-P

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

[Docket No. FSIS-2009-0023]

**Codex Alimentarius Commission:
Meeting of the Codex Committee on
Nutrition and Foods for Special Dietary
Uses**

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

ACTION: Notice of public meeting and request for comments.

SUMMARY: The Office of the Acting Under Secretary for Food Safety, U.S. Department of Agriculture (USDA), and the Food and Drug Administration (FDA), U.S. Department of Health and Human Services (HHS), are sponsoring a public meeting on October 8, 2009. The objective of the public meeting is to provide information and receive public

comments on agenda items and draft United States positions that will be discussed at the 31st Session of the Codex Committee on Nutrition and Foods for Special Dietary Uses (CCNFSDU) of the Codex Alimentarius Commission (Codex), which will be held in Düsseldorf, Germany on November 2–November 6, 2009. In addition, a working group will meet on October 31st on the Development of Nutrient Reference Values for Nutrients Associated with Increased or Decreased Risk of Non-communicable Diseases. The Acting Under Secretary for Food Safety and FDA recognize the importance of providing interested parties the opportunity to obtain background information on the 31st Session of the CCNFSDU and to address items on the agenda.

DATES: The public meeting is scheduled for Thursday, October 8, 2009, from 1 p.m. to 4 p.m.

ADDRESSES: The public meeting will be held in the Auditorium (1A003), Food and Drug Administration, Harvey Wiley Federal Building, 5100 Paint Branch Parkway, College Park, MD 20740. Parking is adjacent to this building and will be available at no charge to individuals who pre-register by the date below (See Pre-Registration). In addition, the College Park metro station is across the street. Codex documents related to the 31st Session of the CCNFSDU will be accessible via the World Wide Web at the following address: <http://www.codexalimentarius.net/current.asp>.

Pre-Registration: To gain admittance to this meeting, individuals must present a photo ID for identification and also are required to pre-register. In addition, no cameras or videotaping equipment will be permitted in the meeting room. To pre-register, please send the following information to this e-mail address (nancy.crane@fda.hhs.gov) by *October 1st, 2009*:

- Your Name.
- Organization.
- Mailing Address.
- Phone number.
- E-mail address.

For Further Information about the 31st Session of the CCNFSDU Contact: Nancy Crane, Assistant to the U.S. Delegate to the CCNFSDU, Office of Nutrition, Labeling and Dietary Supplements, Center for Food Safety and Applied Nutrition, FDA, 5100 Paint Branch Parkway (HFS-830), College Park, MD 20740, Phone: (301) 436-1450, Fax: (301) 436-2636, E-mail: nancy.crane@fda.hhs.gov.

For Further Information about the Public Meeting Contact: Doreen Chen-Moulec, Staff Officer, U.S. Codex Office, Food Safety and Inspection Service (FSIS), Room 4861, South Building, 1400 Independence Avenue, SW., Washington, DC 20250, Phone: (202) 720-4063, Fax: (202) 720-3157, e-mail: Doreen.chen-moulec@fsis.usda.gov.

SUPPLEMENTARY INFORMATION:

Background

The Codex Alimentarius Commission (Codex) was established in 1963 by two United Nations organizations, the Food and Agriculture Organization and the World Health Organization. Through adoption of food standards, codes of practice, and other guidelines developed by its committees, and by promoting their adoption and implementation by governments, Codex

seeks to protect the health of consumers and ensure that fair practices are used in trade.

The CCNFSDU was established to study specific nutritional problems assigned to it by the Codex and advise the Codex on general nutritional issues; to draft general provisions as appropriate, concerning the nutritional aspects of all foods; to develop standards, guidelines, or related texts for foods for special dietary uses, in cooperation with other committees when necessary; and to consider, amend if necessary, and endorse provisions on nutritional aspects proposed for inclusion in Codex standards, guidelines, and related texts. The Committee is hosted by the Federal Republic of Germany.

Issues To Be Discussed at the Public Meeting

The following items on the agenda for the 31st Session of the Committee will be discussed during the public meeting:

- Matters Referred to the Committee from Other Codex Bodies.
 - List of Methods for Dietary Fiber.
 - Proposed Draft Additional or Revised Nutrient Reference Values for Labeling Purposes in the Codex Guidelines on Nutrition Labeling.
 - Proposal for New Work to Amend the Codex General Principles for the Addition of Essential Nutrients to Foods (Revised).
 - Proposal for New Work to Establish a Standard for Processed Cereal-Based Foods for Underweight Infants and Young Children (Revised).
 - Proposal to Revise the Codex Guidelines on Formulated Supplementary Foods for Older Infants and Young Children (Revised).
 - Discussion Paper on Nutrient Reference Values for Nutrients Associated with Risk of Noncommunicable Diseases.
- Each issue listed will be fully described in documents distributed, or to be distributed, by the Secretariat prior to the meeting. Members of the public may access copies of these documents at <http://www.codexalimentarius.net/current.asp>.

Public Meeting

At the October 8, 2009, public meeting, draft U.S. positions on these agenda items will be described and discussed, and attendees will have the opportunity to pose questions and offer comments. Written comments may be offered at the meeting or sent to the U.S. Delegate for the 31st Session of the CCNFSDU, Dr. Barbara Schneeman, at CCNFSDU@fda.hhs.gov. Written comments should state that they relate

to activities of the 31st Session of the CCNFSDU.

Additional Public Notification

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

Done at Washington, DC on August 17, 2009.

Barbara McNiff,

Acting U.S. Manager for Codex Alimentarius.

[FR Doc. E9-20033 Filed 8-19-09; 8:45 am]

BILLING CODE 3410-DM-P

AGENCY FOR INTERNATIONAL DEVELOPMENT

Bureau for Democracy, Conflict and Humanitarian Assistance; Office of Food for Peace; Announcement of Food for Peace Draft Title II Proposal Guidance and Program Policies Fiscal Year 2010; Notice

Pursuant to the Agricultural Trade Development and Assistance Act of 1954 (Pub. L. 480, as amended), notice is hereby given that the draft Title II

Proposal Guidance and Program Policies Fiscal Year 2010 will be available to interested parties for general viewing.

For individuals who wish to review this guidance, the draft Title II Proposal Guidance and Program Policies will be available for your review for thirty days via the Food for Peace Web site:

http://www.usaid.gov/our_work/humanitarian_assistance/ffp/guide.html on or about August 24, 2009. Interested parties can also receive a copy of the draft guidance by contacting the Office of Food for Peace, U.S. Agency for International Development, RRB 7.06-152, 1300 Pennsylvania Avenue, NW., Washington, DC 20523-7600.

Juli Majernik,

Grants Manager, Policy and Technical Division, Office of Food for Peace, Bureau for Democracy, Conflict and Humanitarian Assistance.

[FR Doc. E9-20001 Filed 8-19-09; 8:45 am]

BILLING CODE 6116-01-P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket 69-2008]

Foreign-Trade Zone 149—Port Freeport, TX; Application for Expansion; Amendment of Application

A request has been submitted to the Foreign-Trade Zones Board (the Board) by Port Freeport, grantee of FTZ 149, to amend its application to expand FTZ 149 to include an additional site in Fort Bend County, Texas (Proposed Site 11).

Port Freeport is now requesting the inclusion of an additional site as follows: Proposed Site 12 (636 acres)—KCS/CenterPoint Intermodal Center, located on U.S. Route 59 at West Tavener Road, between Beasley and Kendleton in Fort Bend County.

Public comment is invited from interested parties. Submissions (original and 3 copies) shall be addressed to the Board's Executive Secretary at: Foreign-Trade Zones Board, U.S. Department of Commerce, Room 2111, 1401 Constitution Ave., NW., Washington, DC 20230.

The closing period for their receipt is September 21, 2009. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period (to October 5, 2009).

For further information, contact Elizabeth Whiteman at

Elizabeth_Whiteman@ita.doc.gov or (202) 482-0473.

Andrew McGilvray,
Executive Secretary.

[FR Doc. E9-20034 Filed 8-19-09; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

International Trade Administration

[A-552-802]

Frozen Warmwater Shrimp from Vietnam: Notice of Final Results of Antidumping Duty Changed Circumstances Reviews

AGENCY: Import Administration, International Trade Administration, Department of Commerce.
SUMMARY: On July 2, 2009, the Department ("Department") published a notice of preliminary results of changed circumstances reviews of the antidumping duty order on frozen warmwater shrimp from Vietnam, and determined that Bac Lieu Fisheries Joint Stock Company ("Bac Lieu JSC"), Cadovimex Seafood Import-Export and Processing Joint Stock Company ("Cadovimex Vietnam"), Soc Trang Seafood Joint Stock Company ("STAPIMEX JSC"), Thuan Phuoc Seafoods and Trading Corporation ("Thuan Phuoc JSC"), and UTXI Aquatic Products Processing Corporation ("UTXI Corp.") (collectively, "Five CCR Requestors") are successors-in-interest, respectively, to Bac Lieu Fisheries Company Limited ("Bac Lieu Limited"), Cai Doi Vam Seafood Import-Export Company ("Cadovimex"), Soc Trang Aquatic Products and General Import Export Company ("STAPIMEX"), Thuan Phuoc Seafoods and Trading Corporation ("Thuan Phuoc SOE"), and UTXI Aquatic Products Processing Company ("UTXI") (collectively, "Original Companies"), and should be accorded the same antidumping duty treatment as their respective Original Companies. However, the Department preliminarily found that Can Tho Import Export Fishery Limited Company ("CAFISH") is not the successor-in-interest to Can Tho Agricultural and Animal Products Import Export Company ("CATACO") for purposes of determining the antidumping duty cash deposit rate.¹ For the final results, the Department continues to find that the Five CCR

Requestors are the successors-in-interest to the respective Original Companies, and that CAFISH is not the successor-in-interest to CATACO.

EFFECTIVE DATE: August 20, 2009.

FOR FURTHER INFORMATION CONTACT: Jerry Huang or Scot T. Fullerton, AD/CVD Operations, Office 9, Import Administration, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone: 202-482-4047 or 202-482-1386, respectively.

Background

On February 1, 2005, the Department published in the **Federal Register** the antidumping duty order for frozen warmwater shrimp from Vietnam. See *Notice of Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Certain Frozen Warmwater Shrimp From the Socialist Republic of Vietnam*, 70 FR 5152, 5154-55 (February 1, 2005) ("Order"). As part of the Order, Bac Lieu Limited, Cadovimex, STAPIMEX, Thuan Phuoc SOE, UTXI, and CATACO received a separate antidumping duty cash deposit rate of 4.57 percent. *Id.*

From January 26, 2009, to February 6, 2009, STAPIMEX JSC, UTXI Corp., Cadovimex-Vietnam, Thuan Phuoc JSC, Bac Lieu JSC, requested that the Department conduct changed circumstances reviews, claiming that the Five CCR Requestors are the successors-in-interest to the Original Companies. On March 18, 2009, the Department initiated changed circumstances reviews of the Five CCR Requestors. See *Certain Frozen Warmwater Shrimp from Socialist Republic of Vietnam: Initiation of Changed Circumstances Reviews*, 74 FR 11527 (March 18, 2009).

On March 13, 2009, CATACO requested that the Department conduct a changed circumstances review, claiming CAFISH is the successor-in-interest to CATACO. On April 14, 2009, the Department initiated the changed circumstances review. See *Certain Frozen Warmwater Shrimp from the Socialist Republic of Vietnam: Initiation of Changed Circumstances Review*, 74 FR 17156 (April 14, 2009).

On July 2, 2009, the Department published the preliminary results for the Five CCR Requestors and CATACO and invited interested parties to comment. See *Preliminary Results*. We received no comments or requests for a hearing from interested parties.

Scope of Order

The scope of this order includes certain warmwater shrimp and prawns,

¹ See *Frozen Warmwater Shrimp from Vietnam: Notice of Preliminary Results of Antidumping Duty Changed Circumstances Reviews*, 74 FR 31698 (July 2, 2009) ("Preliminary Results").

whether frozen, wild-caught (ocean harvested) or farm-raised (produced by aquaculture), head-on or head-off, shell-on or peeled, tail-on or tail-off,² deveined or not deveined, cooked or raw, or otherwise processed in frozen form.

The frozen warmwater shrimp and prawn products included in the scope of this investigation, regardless of definitions in the Harmonized Tariff Schedule of the United States (“HTSUS”), are products which are processed from warmwater shrimp and prawns through freezing and which are sold in any count size.

The products described above may be processed from any species of warmwater shrimp and prawns. Warmwater shrimp and prawns are generally classified in, but are not limited to, the *Penaeidae* family. Some examples of the farmed and wild-caught warmwater species include, but are not limited to, whiteleg shrimp (*Penaeus vannamei*), banana prawn (*Penaeus merguensis*), fleshy prawn (*Penaeus chinensis*), giant river prawn (*Macrobrachium rosenbergii*), giant tiger prawn (*Penaeus monodon*), redspotted shrimp (*Penaeus brasiliensis*), southern brown shrimp (*Penaeus subtilis*), southern pink shrimp (*Penaeus notialis*), southern rough shrimp (*Trachypenaeus curvirostris*), southern white shrimp (*Penaeus schmitti*), blue shrimp (*Penaeus stylirostris*), western white shrimp (*Penaeus occidentalis*), and Indian white prawn (*Penaeus indicus*).

Frozen shrimp and prawns that are packed with marinade, spices or sauce are included in the scope of this investigation. In addition, food preparations, which are not “prepared meals,” that contain more than 20 percent by weight of shrimp or prawn are also included in the scope of this investigation.

Excluded from the scope are: (1) Breaded shrimp and prawns (HTS subheading 1605.20.10.20); (2) shrimp and prawns generally classified in the *Pandalidae* family and commonly referred to as coldwater shrimp, in any state of processing; (3) fresh shrimp and prawns whether shell-on or peeled (HTS subheadings 0306.23.00.20 and 0306.23.00.40); (4) shrimp and prawns in prepared meals (HTS subheading 1605.20.05.10); (5) dried shrimp and prawns; (6) canned warmwater shrimp and prawns (HTS subheading 1605.20.10.40); (7) certain dusted shrimp; and (8) certain battered shrimp. Dusted shrimp is a shrimp-based

product: (1) That is produced from fresh (or thawed-from-frozen) and peeled shrimp; (2) to which a “dusting” layer of rice or wheat flour of at least 95 percent purity has been applied; (3) with the entire surface of the shrimp flesh thoroughly and evenly coated with the flour; (4) with the non-shrimp content of the end product constituting between four and 10 percent of the product’s total weight after being dusted, but prior to being frozen; and (5) that is subjected to individually quick frozen (“IQF”) freezing immediately after application of the dusting layer. Battered shrimp is a shrimp-based product that, when dusted in accordance with the definition of dusting above, is coated with a wet viscous layer containing egg and/or milk, and par-fried.

The products covered by this investigation are currently classified under the following HTS subheadings: 0306.13.00.03, 0306.13.00.06, 0306.13.00.09, 0306.13.00.12, 0306.13.00.15, 0306.13.00.18, 0306.13.00.21, 0306.13.00.24, 0306.13.00.27, 0306.13.00.40, 1605.20.10.10, and 1605.20.10.30. These HTS subheadings are provided for convenience and for customs purposes only and are not dispositive, but rather the written description of the scope of this investigation is dispositive.

Final Results of Changed Circumstances Reviews

For the reasons stated in the preliminary results, and because the Department did not receive any comments on the preliminary results of these reviews, the Department continues to find that the Five CCR Requestors are the successors-in-interest to the Original Companies, respectively, and that CAFISH is not the successor-in-interest to CATACO, for purposes of the antidumping duty cash-deposit rate.³ Accordingly, the Five CCR Requestors should receive the same antidumping duty treatment as the respective Original Companies to which we found them to be the successor-in-interest.

³ On July 21, 2006, Bac Lieu JSC became the successor to Bac Lieu Limited; on February 1, 2005, Cadovimex Vietnam became the successor to Cadovimex; on June 1, 2006, STAPIMEX JSC became the successor to STAPIMEX; on June 29, 2007, Thuan Phuoc JSC became the successor to Thuan Phuoc SOE; on June 15, 2006, UTXI Corp. became the successor to UTXI. See Memo to File, from Jerry Huang, International Trade Compliance Analyst, through Scot T. Fullerton, Program Manager, AD/CVD Office 9, regarding Analysis Memo for Preliminary Determination of Antidumping Duty Changed Circumstances Reviews of Frozen Warmwater Shrimp from the Socialist Republic of Vietnam (June 25, 2009)

CAFISH remains subject to the Vietnam-wide entity rate.

Notification

The Department will instruct U.S. Customs and Border Protection that the cash deposit determination from these changed circumstances reviews will apply to all shipments of the subject merchandise produced and exported by the Five CCR Requestors entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of these changed circumstances reviews. This deposit rate shall remain in effect until publication of the final results of the next administrative review in which the Five CCR Requestors participate.

This notice also serves as a reminder to parties subject to administrative protective orders (“APOs”) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.306. Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a sanctionable violation.

This notice is published in accordance with sections 751(b)(1) and 777(i) of the Tariff Act of 1930, as amended, and 19 CFR 351.216.

Dated: August 14, 2009.

Carole Showers,

Acting Deputy Assistant Secretary for Policy and Negotiations.

[FR Doc. E9–20060 Filed 8–19–09; 8:45 am]

BILLING CODE 3510-DS-S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648-XF97

Marine Mammals; File No. 10137–01

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

ACTION: Notice; issuance of permit amendment and proposed amendment.

SUMMARY: Notice is hereby given that the NMFS Pacific Islands Fisheries Science Center, Marine Mammal Research Program (MMRP), 2570 Dole Street, Honolulu, HI 96822–2396 (Responsible Party: Frank Parrish, Ph.D.), has been issued an amendment to Permit No. 10137 to conduct research and enhancement activities on

² “Tails” in this context means the tail fan, which includes the telson and the uropods.

Hawaiian monk seals (*Monachus schauinslandi*).

ADDRESSES: The permit and related documents are available for review upon written request or by appointment in the following offices:

Permits, Conservation and Education Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301)713-2289; fax (301)713-0376; and Pacific Islands Region, NMFS, 1601 Kapiolani Blvd., Rm 1110, Honolulu, HI 96814-4700; phone (808)944-2200; fax (808)973-2941.

FOR FURTHER INFORMATION CONTACT: Amy Sloan or Kate Swails, (301)713-2289.

SUPPLEMENTARY INFORMATION: On March 6, 2008, notice was published in the *Federal Register* (73 FR 12137) that a request for a permit to take the species identified above had been submitted by the MMRP. The permit was issued on June 30, 2009 (74 FR 33210), under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), the regulations governing the taking and importing of marine mammals (50 CFR part 216), the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*), and the regulations governing the taking, importing, and exporting of endangered and threatened species (50 CFR parts 222-226). Notice of the proposed amendment was published on June 30, 2009 (74 FR 33210).

Permit No. 10137 authorizes the MMRP to: (1) assess survivorship, reproductive rates, pup production, condition, abundance, movements among subpopulations, and incidence and causes of injury or mortality of Hawaiian monk seals; (2) diagnose disease, monitor exposure to disease, and develop normal baseline hematology and biochemistry parameters; (3) conduct activities to increase survival of individuals; and (4) investigate foraging ecology to determine foraging locations, diving parameters, characteristics of foraging substrate, and prey identification and foraging behaviors.

Permit No. 10137-01 amends and replaces Permit No. 10137. Permit No. 10137-01 authorizes the activities describe above and includes authorization to translocate six pups from French Frigate Shoals to Nihoa Island in 2009. Further translocations of up to 20 pup or juvenile between islands/atolls within the Northwestern Hawaiian Islands, as described in the original permit application, will be deferred until a separate Endangered Species Act section 7 consultation is

completed. At such time, NMFS proposes to amend Permit No. 10137-01 to include additional translocations of seals. Permit No. 10137-01 expires on June 30, 2014.

In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), an environmental assessment was prepared analyzing the effects of the permitted activities. After a Finding of No Significant Impact, the determination was made that it was not necessary to prepare an environmental impact statement.

Issuance of this permit, as required by the ESA, was based on a finding that such permit: (1) was applied for in good faith; (2) will not operate to the disadvantage of such endangered species; and (3) is consistent with the purposes and policies set forth in section 2 of the ESA.

Dated: August 14, 2009.

P. Michael Payne,

Chief, Permits, Conservation and Education Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. E9-20032 Filed 8-19-09; 8:45 am]

BILLING CODE 3510-22-S

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 1638]

Reorganization/Expansion of Foreign-Trade Zone 26; Atlanta, GA, Area

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a-81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, the Georgia Foreign-Trade Zone, Inc., grantee of Foreign-Trade Zone 26, submitted an application to the Board for authority to reorganize and expand its zone to remove acreage from Site 2, delete Site 8 in its entirety, and add eight new sites (proposed Sites 11-18) in the Atlanta, Georgia, area, within and adjacent to the Atlanta Customs and Border Protection port of entry (FTZ Docket 55-2008, filed 10/6/08);

Whereas, notice inviting public comment was given in the **Federal Register** (73 FR 60676-60677, 10/14/08; correction, 73 FR 63675, 10/27/08) and the application has been processed pursuant to the FTZ Act and the Board's regulations; and,

Whereas, the Board adopts the findings and recommendation of the examiner's report, and finds that the requirements of the FTZ Act and Board's regulations are satisfied, and that the proposal, with respect to Site 2,

Site 8 and Sites 11-17, is in the public interest;

Now, therefore, the Board hereby orders:

The application to reorganize and expand FTZ 26 is approved in part (with respect to Site 2, Site 8 and Sites 11-17), subject to the FTZ Act and the Board's regulations, including Section 400.28, and to the Board's standard 2,000-acre activation limit for the overall general-purpose zone project, and further subject to a sunset provision that would terminate authority on August 31, 2014, for Sites 11-17 where no activity has occurred under FTZ procedures before that date.

Signed at Washington, DC, this 7th day of August 2009.

Ronald K. Lorentzen,

Acting Assistant Secretary of Commerce for Import Administration, Alternate Chairman, Foreign-Trade Zones Board.

Andrew McGilvray,

Executive Secretary.

[FR Doc. E9-20025 Filed 8-19-09; 8:45 am]

BILLING CODE P

COMMODITY FUTURES TRADING COMMISSION

Notice of Intent, Pursuant to the Authority in Section 2(h)(7) of the Commodity Exchange Act and Commission Rule 36.3(c)(3), To Undertake a Determination Whether the Carbon Financial Instrument Contract Offered for Trading on the Chicago Climate Exchange, Inc., Performs a Significant Price Discovery Function

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of action and request for comment.

SUMMARY: The Commodity Futures Trading Commission ("CFTC" or "Commission") is undertaking a review to determine whether the Carbon Financial Instrument contract offered for trading on the Chicago Climate Exchange, Inc. (CCX), an exempt commercial market ("ECM") under Sections 2(h)(3)-(5) of the Commodity Exchange Act ("CEA" or the "Act"), performs a significant price discovery function. Authority for this action is found in section 2(h)(7) of the CEA and Commission rule 36.3(c) promulgated thereunder. In connection with this evaluation, the Commission invites comment from interested parties.

DATES: Comments must be received on or before September 4, 2009.

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

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

- *E-mail*: secretary@cftc.gov. Include CCX Carbon Financial Instrument Contract in the subject line of the message.

- *Fax*: (202) 418-5521.

- *Mail*: Send to David A. Stawick, Secretary, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581

- *Courier*: Same as mail above.

All comments received will be posted without change to <http://www.CFTC.gov/>.

FOR FURTHER INFORMATION CONTACT:

Gregory K. Price, Industry Economist, Division of Market Oversight, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581. Telephone: (202) 418-5515. E-mail: gprice@cftc.gov; or Susan Nathan, Senior Special Counsel, Division of Market Oversight, same address. Telephone: (202) 418-5133. E-mail: snathan@cftc.gov.

SUPPLEMENTARY INFORMATION:

I. Introduction

On March 16, 2009, the CFTC promulgated final rules implementing provisions of the CFTC Reauthorization Act of 2008 (“Reauthorization Act”)¹ which subjects ECMs with significant price discovery contracts (“SPDCs”) to self-regulatory and reporting requirements, as well as certain Commission oversight authorities, with respect to those contracts. Among other things, these rules and rule amendments revise the information-submission requirements applicable to ECMs, establish procedures and standards by which the Commission will determine whether an ECM contract performs a significant price discovery function, and provide guidance with respect to compliance with nine statutory core principles applicable to ECMs with SPDCs. These rules became effective on April 22, 2009.

In determining whether an ECM’s contract is or is not a SPDC, the Commission will consider the contract’s material liquidity, price linkage to other contracts, potential for arbitrage with other contracts traded on designated contract markets or derivatives

transaction execution facilities, use of the ECM contract’s prices to execute or settle other transactions, and other factors.

In order to facilitate the Commission’s identification of possible SPDCs, Commission rule 36.3(c)(2) requires that an ECM operating in reliance on section 2(h)(3) promptly notify the Commission and provide supporting information or data concerning any contract: (i) that averaged five trades per day or more over the most recent calendar quarter; and (ii) (A) for which the ECM sells price information regarding the contract to market participants or industry publications; or (B) whose daily closing or settlement prices on 95 percent or more of the days in the most recent quarter were within 2.5 percent of the contemporaneously determined closing, settlement, or other daily price of another agreement.

II. Determination of a SPDC

A. The SPDC Determination Process

Commission rule 36.3(c)(3) establishes the procedures by which the Commission makes and announces its determination on whether a specific ECM contract serves a significant price discovery function. Under those procedures, the Commission will publish a notice in the **Federal Register** that it intends to undertake a determination as to whether the specified agreement, contract, or transaction performs a significant price discovery function and to receive written data, views, and arguments relevant to its determination from the ECM and other interested persons.² After prompt consideration of all relevant information, the Commission will, within a reasonable period of time after the close of the comment period, issue an order explaining its determination. Following the issuance of an order by the Commission that the ECM executes or trades an agreement, contract, or transaction that performs a significant price discovery function, the ECM must demonstrate, with respect to that agreement, contract, or transaction, compliance with the core principles under section 2(h)(7)(C) of the CEA³ and the applicable provisions of Part 36. If the Commission’s order represents the first time it has determined that one of the ECM’s contracts performs a significant price discovery function, the ECM must submit a written

demonstration of its compliance with the core principles within 90 calendar days of the date of the Commission’s order. For each subsequent determination by the Commission that the ECM has an additional SPDC, the ECM must submit a written demonstration of its compliance with the core principles within 30 calendar days of the Commission’s order.

B. CCX Carbon Financial Instrument Contract

CCX identifies its CFI contract as a cash contract that requires the physical delivery of CCX carbon dioxide (CO₂) emission allowances called CFIs.⁴ The size of the CCX CFI contract is 1,000 metric tons (MT) of CO₂-equivalent emissions,⁵ which are equal to 10 CFIs (each CFI specifies 100 MT CO₂-equivalent emissions). All trades in the subject contract results in the physical delivery of CFIs.

The CCX carbon reduction program is voluntary where certain entities choose to reduce their GHG emissions. In general, the electric utilities and manufacturers combined comprise the largest share of the program participants. Once an entity decides to reduce its GHG emissions, it signs a legally-binding contract with the CCX. Participants are given allowances by the CCX to cover emissions level targets, and additional credits can be created by investing in offset projects. If an entity’s plant cannot meet its reduction requirements through new investments and/or technological improvements, additional allowances can be purchased from other program participants.

The program specifies that carbon emission reductions be completed over two phases. Phase I (applicable between

⁴ The instruments listed by an ECM in reliance on the exemption in section 2(h)(3) of the Act are determined by the ECM when it files notice with the Commission, pursuant to section 2(h)(5), of its intention to rely on the exemption. Section 2(h)(7) authorizes the Commission to determine whether an ECM “agreement, contract or transaction” performs a significant price discovery function, but does not require that the Commission also determine whether the instrument is otherwise subject to the Commission’s jurisdiction (i.e., a futures or commodity option contract). Instead, the descriptive language of section 2(h)(7) mirrors the “[conducted] in reliance on the exemption” language of section 2(h)(5) and refers merely to “agreement, contract or transaction.” Thus, the statutory language directs the Commission, in determining whether an ECM instrument is a SPDC, to evaluate any instrument listed by an ECM in reliance on the section 2(h)(3) exemption under the SPDC process set forth in the Part 36 rules.

⁵ Greenhouse gases (GHGs) include CO₂, methane (CH₄), nitrous oxide (N₂O), hydrofluorocarbons (HFCs), perfluorocarbons (PFCs), and sulfur hexafluoride (SF₆). The negative impact that each non-CO₂ GHGs has on the environment can be expressed as a multiple of CO₂’s environmental effect.

¹ 74 FR 12178 (Mar. 23, 2009); these rules became effective on April 22, 2009.

² The Commission may commence this process on its own initiative or on the basis of information provided to it by an ECM pursuant to the notification provisions of Commission rule 36.3(c)(2).

³ 7 U.S.C. 2(h)(7)(C).

2003 and 2006) required a commitment to reducing each participant's carbon emissions by one percent per year below its own baseline level (calculated as the average of the firm's carbon emissions between 1998 and 2001). Phase II (which runs from 2007 through 2010) requires participants to commit to an emissions reduction schedule that results in a six-percent decline in CO₂ output by 2010. Participants' baseline estimates as well as their emissions levels and progress toward meeting the reduction requirements are audited by the Financial Industry Regulatory Authority (FINRA).

CFIs are distributed for multiple program years at the time of entry into the program through the end of the current phase. Each CFI is dated with a particular calendar year (vintage), with the vintage indicating the compliance year for which it is redeemable. Alternatively, entities can save their excess CFIs for use in future compliance periods. The CCX also auctions a certain number of current- and future-year CFIs. Allowances are recorded electronically and title transfers between entities are effected within the CCX's electronic registry. Each year in April, the CCX compares each participant's reported emissions from the previous calendar year to the number of allowances held that are dated with the compliance year, or with earlier years. Firms surrender the appropriate number of allowances that covers their emissions, and the redeemed CFIs are deducted from the firms' accounts. Unused allowances that are not needed for compliance in the current year are rolled forward and are included in the allowance supply for the following year. Alternatively, plants can sell excess allowances to other market participants.

As noted above, the CCX's GHG reduction program allows for the creation of CFIs through offset projects. In this regard, the CCX issues CFIs to entities that own, implement, or aggregate eligible projects on the basis of sequestration, destruction, or displacement of GHG emissions. The offset project categories for which the CCX issues CFIs include agricultural, coal mine and landfill methane, agricultural and rangeland soil carbon, forestry, renewable energy, energy efficiency and fuel switching, and clean development mechanism projects.

Based upon a required quarterly notification filed on July 1, 2009 (mandatory under Rule 36.3(c)(2)), the CCX reported that, with respect to its CFI contract, an average of 15 separate trades per day occurred in the second quarter of 2009. During the same period, the CFI had an average daily trading

volume of 1,235 contracts. In the first quarter of 2009, market participants traded the CFI contract on average 29 times per day with an average total daily trading volume of 2,661 contracts. Because the CFI contract requires immediate delivery and payment on the following day, open interest figures are not applicable.

It appears that the CCX CFI contract may satisfy the material liquidity and material price reference factors for SPDC determination. With respect to material liquidity, daily trading in the CFI contract exceeds an average of ten trades per day. Moreover, the average daily trading volume in the CFI is greater than 1,000 contracts per day. In regard to material price reference, the CFI market is solely a CCX-created entity. In this regard, the CCX designed all of the parameters of this carbon emission reduction program, as well as established the rules for membership in the ECM, allowance trading, and the creation of offsets. The only existing market in which CFIs can be bought and sold on a spot basis is the CCX cash market. Thus, traders look to the CCX as a source of price information and price discovery for the CFIs. Moreover, the Chicago Climate Futures Exchange, a subsidiary of the CCX, trades a futures contract which specifies the delivery of CFIs.

The instruments listed by an ECM in reliance on the exemption in section 2(h)(3) of the CEA are determined by the ECM when it files notice with the Commission, pursuant to section 2(h)(5), of its intention to rely on the exemption. Section 2(h)(7) authorizes the Commission to determine whether an ECM's "agreement, contract or transaction" performs a significant price discovery function, but does not require that the Commission also determine whether the instrument is otherwise subject to the Commission's jurisdiction (i.e., a futures or commodity option contract). Instead, the descriptive language of section 2(h)(7) mirrors the "[conducted] in reliance on the [2(h)(5)] exemption" language of section 2(h)(5) and refers merely to an "agreement, contract or transaction." The statutory language indicates that any instrument listed by an ECM in reliance on the exemption in section 2(h)(3) of the CEA—including a cash contract that generally is not subject to the Commission's jurisdiction—has the potential to be or become a SPDC. Accordingly, contracts identified to the Commission as listed in reliance on section 2(h)(3) should be evaluated under the SPDC process set forth in the Part 36 rules.

III. Request for Comment

In evaluating whether an ECM's agreement, contract, or transaction performs a significant price discovery function, section 2(h)(7) of the CEA directs the Commission to consider, as appropriate, four specific criteria: price linkage, arbitrage, material price reference, and material liquidity. As it explained in Appendix A to the Part 36 rules, the Commission, in making SPDC determinations, will apply and weigh each factor, as appropriate, to the specific contract and circumstances under consideration.

As part of its evaluation, the Commission will consider the written data, views, and arguments from any ECM that lists the potential SPDC and from any other interested parties. Accordingly, the Commission requests comment on whether the CCX CFI contract performs a significant price discovery function. Commenters' attention is directed particularly to Appendix A of the Commission's Part 36 rules for a detailed discussion of the factors relevant to a SPDC determination. The Commission notes that comments which analyze the contract in terms of these factors will be especially helpful to the determination process. In order to determine the relevance of comments received, the Commission requests that commenters explain in what capacity are they knowledgeable about the CFI contract.

IV. Related Matters

A. Paperwork Reduction Act

The Paperwork Reduction Act of 1995 ("PRA")⁶ imposes certain requirements on federal agencies, including the Commission, in connection with their conducting or sponsoring any collection of information, as defined by the PRA. Certain provisions of final Commission rule 36.3 impose new regulatory and reporting requirements on ECMs, resulting in information collection requirements within the meaning of the PRA; OMB previously has approved and assigned OMB control number 3038-0060 to this collection of information.

B. Cost-Benefit Analysis

Section 15(a) of the CEA⁷ requires the Commission to consider the costs and benefits of its actions before issuing an order under the Act. By its terms, section 15(a) does not require the Commission to quantify the costs and benefits of an order or to determine whether the benefits of the order outweigh its costs; rather, it requires

⁶ 44 U.S.C. 3507(d).

⁷ 7 U.S.C. 19(a).

that the Commission “consider” the costs and benefits of its action. Section 15(a) further specifies that the costs and benefits shall be evaluated in light of five broad areas of market and public concern: (1) Protection of market participants and the public; (2) efficiency, competitiveness, and financial integrity of futures markets; (3) price discovery; (4) sound risk management practices; and (5) other public interest considerations. The Commission may in its discretion give greater weight to any one of the five enumerated areas and could in its discretion determine that, notwithstanding its costs, a particular order is necessary or appropriate to protect the public interest or to effectuate any of the provisions or accomplish any of the purposes of the Act. The Commission has considered the costs and benefits of this Order in light of the specific provisions of section 15(a) and has concluded that this Order, which strengthens Federal oversight of the ECM and helps to prevent market manipulation, is necessary and appropriate to accomplish the purposes of section 2(h)(7) which, among other provisions, directs the Commission to evaluate all contracts listed on ECMs to determine whether they serve a significant price discovery function.

When a futures contract begins to serve a significant price discovery function, that contract, and the ECM on which it is traded, warrants increased oversight to deter and prevent price manipulation and other disruptions to market integrity, both on the ECM itself and in any related futures contracts trading on designated contract markets (“DCMs”). An Order finding that a particular contract is a SPDC triggers this increased oversight and imposes obligations and responsibilities on the ECM which are calculated to accomplish this goal. This increased oversight in turn increases transparency and helps to ensure fair competition among ECMs and DCMs trading similar products and competing for the same business. Moreover, the ECM on which the SPDC is traded must assume, with respect to that contract, all the responsibilities and obligations of a registered entity under the CEA and Commission regulations. Additionally, the ECM must comply with core principles established by section 2(h)(7) of the Act, including the obligation to establish position limits and/or accountability standards for the SPDC. These increased ECM responsibilities, along with the CFTC’s enhanced regulatory authority, subject the ECM’s risk management practices to the

Commission’s supervision and oversight and generally enhance the financial integrity of the markets.

Issued in Washington, DC on August 13, 2009 by the Commission.

David A. Stawick,

Secretary of the Commission.

[FR Doc. E9–20024 Filed 8–19–09; 8:45 am]

BILLING CODE P

DEPARTMENT OF DEFENSE

Department of the Air Force

Availability of the Fiscal Year 2008 Air Force Services Contract Inventory Pursuant to Section 807 of the National Defense Authorization Act for Fiscal Year 2008

AGENCY: Department of the Air Force, DOD.

ACTION: Notice of publication.

SUMMARY: In accordance with section 2330a of Title 10 United States Code as amended by the National Defense Authorization Act for Fiscal Year 2008 (NDAA 08) Section 807, the Associate Deputy Assistant Secretary of the Air Force (Contracting) (ADAS(C)), Assistant Secretary (Acquisition), and the Office of the Director, Defense Procurement and Acquisition Policy, Office of Strategic Sourcing (DPAP/SS) will make available to the public the first inventory of activities performed pursuant to contracts for services. The inventory will be published to the Air Force Contracting (SAF/AQC) Web site at the following location: <http://ww3.safaq.hq.af.mil/contracting/>.

DATES: Inventory to be made publically available within 30 days of publication of this notice.

ADDRESSES: Send written comments and suggestions concerning this inventory to Laura Welsh, Procurement Analyst, Office of the Deputy Assistant Secretary (Contracting), Assistant Secretary of the Air Force (Acquisition), SAF/AQC, 1060 Air Force Pentagon, Washington, DC 20330–1060. Telephone (703) 588–7047 or e-mail at Laura.Welsh@pentagon.af.mil.

FOR FURTHER INFORMATION CONTACT: Laura Welsh, (703) 588–7047 or e-mail at Laura.Welsh@pentagon.af.mil.

SUPPLEMENTARY INFORMATION: NDAA 08, Section 807 amends section 2330a of Title 10 United States Code to require annual inventories and reviews of activities performed on services contracts. The Deputy Under Secretary of Defense (Acquisition and Technology) (DUSD(AT)) transmitted

the Air Force inventory to Congress on August 4, 2009.

The SAF/AQC submitted the Air Force Fiscal Year 2008 Services Contract Inventory to the Office of the DPAP/SS on July 1, 2009. Included with this inventory is a narrative that describes the methodology for data collection, the inventory data, and the plan for review of this inventory. The narrative and cover letters may be downloaded in electronic form (.pdf file) from the Web site at the following location: <http://ww3.safaq.hq.af.mil/contracting/>. The inventory does not include contract numbers, contractor identification or other proprietary or sensitive information as these data can be used to disclose a contractor’s proprietary proposal information.

An inventory of classified services contracts is not available and not published.

Bao-Anh Trinh,

Air Force Federal Register Liaison Officer.

[FR Doc. E9–20042 Filed 8–19–09; 8:45 am]

BILLING CODE 5001–05–P

DEPARTMENT OF EDUCATION

Office of Special Education and Rehabilitative Services; Overview Information; Technology and Media Services for Individuals With Disabilities—Research and Development Center on Digital Images and Graphic Content in Accessible Instructional Materials; Notice Inviting Applications for New Awards for Fiscal Year (FY) 2010

Catalog of Federal Domestic Assistance (CFDA) Number: 84.327B.

Dates: Applications Available: August 20, 2009.

Deadline for Transmittal of Applications: October 19, 2009.

Deadline for Intergovernmental Review: December 18, 2009.

Full Text of Announcement

I. Funding Opportunity Description

Purpose of Program: The purposes of the Technology and Media Services for Individuals with Disabilities program are: (1) To improve results for children with disabilities by promoting the development, demonstration, and use of technology; (2) to support educational media services activities designed to be of educational value in the classroom setting to children with disabilities; and (3) to provide support for captioning and video description of educational materials that are appropriate for use in the classroom setting.

Priority: In accordance with 34 CFR 75.105(b)(2)(v), this priority is from allowable activities specified in the statute (see sections 674 and 681(d) of the Individuals with Disabilities Education Act (IDEA), 20 U.S.C. 1474 and 1481(d)).

Absolute Priority: For FY 2010 and any subsequent year in which we make awards from the list of unfunded applicants from this competition, this priority is an absolute priority. Under 34 CFR 75.105(c)(3) we consider only applications that meet this priority.

This priority is:

Technology and Media Services for Individuals With Disabilities—Research and Development Center on Digital Images and Graphic Content in Accessible Instructional Materials.

Background:

Section 612(a)(23) of IDEA requires States to provide instructional materials in accessible formats to students who are blind or have print disabilities in a timely manner. Section 613(a)(6) of IDEA includes a similar requirement for local educational agencies (LEAs). In the process of implementing the accessible instructional materials (AIM) provisions under IDEA, States, LEAs, and the accessible media producers (AMPs) who States and LEAs employ to convert instructional materials into accessible formats have encountered barriers to the production of high-quality AIM, including limits to the technology available to produce AIM with appropriate graphic content, such as pictures, tables, and graphs. In addition, most currently available assistive technology devices, including text-to-speech readers, and software used by students to access digital files, do not provide access to images and graphic content.

Students' access to high-quality AIM, including images and graphic content, is integral to their successful progress in the general education curriculum. Images and graphic content make up a significant portion of the information available in textbooks (Beaver and Oddo, 2005). For example, one eighth grade social studies textbook included 394 photographs and 372 graphics (*i.e.*, charts, maps, timelines, diagrams, and graphs) (Baker, 2004). The images and graphic content of this print textbook supplemented the content in the written text and also presented instructional content that was not included in the textual material. However, this content is often not accessible to students who are blind or have print disabilities. Therefore, these students do not have the same access to the curriculum as their non-disabled peers.

Currently, there are major barriers to ensuring that students who are blind or have print disabilities can access written instructional materials and text that include images and graphic content. First, the production of images and graphic content in AIM, including tactile graphics and verbal descriptions, can be time consuming and costly. Second, most assistive devices and software do not provide access to the images and graphic content and for those that do, the quality of the images and graphic content displays is not comparable to the quality of the images and graphic content included in standard print instructional materials (Bullen, 2008; Chiari, 2004; Davies, Stock, King, & Weymeyer, 2008; Unsworth, 2004; Warren, 2009). Since students who are blind or have print disabilities have inadequate and limited access to images and graphic content in AIM, they are at a disadvantage compared to their non-disabled peers.

The Department of Education (Department) currently funds three projects that produce and disseminate AIM in multiple formats to students with disabilities: The American Printing House for the Blind (<http://www.aph.org/>), Recording for the Blind and Dyslexic (RFB&D) (<http://www.rfbd.org>), and Bookshare for Education (B4E) (<http://www.bookshare.org/>). These projects, funded by the Office of Special Education Programs (OSEP), and other AMPs produce images and graphic content in the following formats: (1) Visual displays that may be modified for accessibility (*e.g.*, magnification, increased contrast, color content, *etc.*); (2) images and graphic descriptions in auditory, print, and braille formats; (3) tactile images and graphics; and (4) combinations of these formats. Because the production of high-quality images and graphic content in accessible formats is time-consuming, costly, and requires high levels of skill and content knowledge to develop, States and LEAs are having difficulty both including these images and graphic content in AIM and meeting the statutory requirement to deliver AIM in a timely manner to students who are blind or have print disabilities. In addition, software used by students to convert electronic files into accessible formats such as refreshable braille, digital audio, synthetic speech, and digital text often does not convey content included in images and graphics. OSEP intends to fund a center that will implement a rigorous program of research and development to improve both the cost, quality, usability, and availability of

images and graphic content in AIM and the devices and software used to access that content.

Priority

The purpose of this priority is to fund a cooperative agreement to support the establishment and operation of a Research and Development Center on Digital Images and Graphic Content in AIM (Center). The Center must conduct a systematic program of research to determine: (1) The availability and technological adequacy of current evidence-based technologies used to produce high-quality images and graphic content for AIM; (2) the availability, level of consumer usage, and adequacy of current devices and software used to access these images and the graphic content; and (3) the cost, quality, usability, and availability of both these images and this graphic content and the devices and software used to access them. The Center must apply the evidence and knowledge resulting from this research as it plans and conducts development activities to improve the effectiveness and efficiency of technologies used to produce AIM that include images and graphic content, and as it develops or modifies devices and software used by students who are blind or have print disabilities to access electronic files containing instructional materials that include images and graphic content.

To be considered for funding under this absolute priority, applicants must meet the application requirements contained in this priority. All projects funded under this absolute priority also must meet the programmatic and administrative requirements specified in the priority.

Application Requirements. An applicant must include in its application—

(a) A logic model that depicts, at a minimum, the goals, activities, outputs, and outcomes of the proposed project. A logic model communicates how a project will achieve its outcomes and provides a framework for both the formative and summative evaluations of the project;

Note: The following Web site provides more information on logic models and lists multiple online resources: <http://www.cdc.gov/eval/resources.htm>.

(b) A plan to implement the activities described in the *Project Activities* section of this priority;

(c) A plan, linked to the proposed project's logic model, for a formative evaluation of the proposed project's activities. The plan must describe how the formative evaluation will use clear

performance objectives to ensure continuous improvement in the operation of the proposed project, including objective measures of progress in implementing the project and ensuring the quality of products and services;

(d) A budget for a summative evaluation to be conducted by an independent third party;

(e) A budget for attendance at the following:

(1) A 1½-day kick-off meeting to be held in Washington, DC, within four weeks after receipt of the award, and an annual planning meeting held in Washington, DC, with the OSEP Project Officer during each subsequent year of the project period.

(2) A three-day Project Directors' Conference in Washington, DC, during each year of the project period.

(3) A three-day Technology Project Directors' Conference in Washington, DC, during each year of the project period.

(4) Two two-day trips annually to attend Department briefings, Department-sponsored conferences, and other meetings, as requested by OSEP; and

(f) A line item in the proposed budget for an annual set-aside of five percent of the grant amount to support emerging needs that are consistent with the proposed project's activities, as those needs are identified in consultation with OSEP.

Note: With approval from the OSEP Project Officer, the Center must reallocate any remaining funds from this annual set-aside no later than the end of the third quarter of each budget period.

Project Activities. To meet the requirements of this priority, the Center, at a minimum, must conduct the following activities:

(a) Establish a technical advisory and review panel made up of publishers; AMPs; State educational agency (SEA) and local educational agency (LEA) representatives; institutions of higher education (IHEs) representatives; consumers; and technology developers, vendors, and others with expertise in AIM production, devices, and software. The technical review panel must meet at least one time each year of the project. The project must submit the names of the panel members to the OSEP project officer for approval within 30 days of the start of the award.

(b) Evaluate current technologies that are used to produce images and graphic content in digital files in order to make that content accessible to students who are blind or have print disabilities. These technologies include conversion

of images and graphics into digital formats such as Joint Photographic Experts Group (JPEG), portable network graphics (PNG), and scalable vector graphics (SVG) files; video description; and other digital representations of images and graphics that can be used to provide accessibility.

(c) Evaluate current devices and software that provide access to images and graphic content in digital formats. These technologies include devices and software for reading digital formats, refreshable braille displays, enlarged displays, and other devices and software that provide access to digital images and graphic content, such as programs that convert text to speech.

(d) Collaborate with publishers; AMPs; SEAs; LEAs; consumers; and technology developers, vendors, and others with expertise in AIM production, devices, and software—

(1) To develop new or modify current technologies for producing high-quality images and graphic content for AIM; and

(2) To develop new or modify currently available devices and software used to access AIM that includes high-quality images and graphic content.

(e) Select field-test sites and participants for assessing the cost, quality, usability, and availability of the technologies, including devices and software products that are developed or modified by the Center. The final selection of field-test sites must be approved by the OSEP Project Officer before participation agreements are finalized between the sites and the Center.

(f) Maintain a Web site that meets government or industry-recognized standards for accessibility and that links to the Web site operated by the Technical Assistance Coordination Center (TACC).

(g) Prepare and disseminate reports, documents, and other materials on:

(1) Current technologies used to produce images and graphic content for AIM.

(2) Currently available devices and software used to access AIM, including images and graphic content.

(3) Processes related to the development or modification of:

(i) Technologies used in producing images and graphic content for AIM.

(ii) Devices and software used to access AIM, including images and graphic content;

(4) Any devices or software developed or modified by the Center; and

(5) Related topics, as requested by OSEP, for specific audiences, including AMPs; SEAs; LEAs; consumers; families of students with disabilities; and

technology developers, vendors, and others with expertise in AIM production, devices and software. In consultation with the OSEP Project Officer and the advisory committee established in accordance with paragraph (a) of this section, the Center must make selected reports, documents, and other materials available in formats appropriate for students and families.

(h) Communicate and collaborate, on an ongoing basis, with OSEP-funded projects, including the National Instructional Materials Access Center (NIMAC), the National Instructional Materials Accessibility Standard (NIMAS) Development Center, the NIMAS Technical Assistance Center, B4E, RFB&D, and TACC. This collaboration could include the joint development of products, participation in field-testing, and regular communications and updates on Center activities.

(i) Prior to developing any new product, whether paper or electronic, submit to the OSEP Project Officer and the Proposed Product Advisory Board at OSEP's TACC for approval, a proposal describing the content and purpose of the product.

(j) Maintain ongoing communication with the OSEP Project Officer through biweekly phone conversations and e-mail communication.

Fourth and Fifth Years of the Project

In deciding whether to continue funding the Center for the fourth and fifth years, the Secretary will consider the requirements of 34 CFR 75.253(a), and in addition—

(a) The recommendation of a review team consisting of experts selected by the Secretary. This review will be conducted during a one-day meeting in Washington, DC, that will be held during the last half of the second year of the project period. The Center must budget for travel expenses associated with this one-day intensive review;

(b) The timeliness and effectiveness with which all requirements of the negotiated cooperative agreement have been or are being met by the Center; and

(c) The quality, relevance, and usefulness of the Center's activities and products and the degree to which the Center's activities and products have contributed to changed practice and improved student access to the general education curriculum through improved access to high-quality accessible instructional materials and devices.

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Waiver of Proposed Rulemaking: Under the Administrative Procedure Act (APA) (5 U.S.C. 553), the Department generally offers interested parties the opportunity to comment on proposed priorities. Section 681(d) of IDEA, however, makes the public comment requirements of the APA inapplicable to the priority in this notice.

Program Authority: 20 U.S.C. 1474 and 1481(d).

Applicable Regulations: The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 80, 81, 82, 84, 85, 86, 97, 98, and 99.

Note: The regulations in 34 CFR part 79 apply to all applicants except Federally recognized Indian Tribes.

Note: The regulations in 34 CFR part 86 apply to IHEs only.

II. Award Information

Type of Award: Cooperative Agreement.

Estimated Available Funds: The Administration has requested \$30,949,000 for the Technology and Media Services for Individuals with Disabilities program for FY 2010, of which we intend to use an estimated \$1,000,000 for the Research and Development Center on Digital Images and Graphic Content in Accessible Instructional Materials competition. The actual level of funding, if any, depends on final congressional action. However, we are inviting applications to allow enough time to complete the grant

process if Congress appropriates funds for this program.

Contingent upon the availability of funds and the quality of applications, we may make additional awards in FY 2011 from the list of unfunded applicants from this competition.

Maximum Awards: We will reject any application that proposes a budget exceeding \$1,000,000 for a single budget period of 12 months. The Assistant Secretary for Special Education and Rehabilitative Services may change the maximum amount through a notice published in the **Federal Register**.

Estimated Number of Awards: 1.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 60 months.

III. Eligibility Information

1. **Eligible Applicants:** SEAs; LEAs, including public charter schools that are considered LEAs under State law; IHEs; other public agencies; private nonprofit organizations; outlying areas; freely associated States; Indian Tribes or Tribal organizations; and for-profit organizations.

2. **Cost Sharing or Matching:** This competition does not require cost sharing or matching.

3. **Other: General Requirements—**(a) The projects funded under this competition must make positive efforts to employ and advance in employment qualified individuals with disabilities (see section 606 of IDEA).

(b) Applicants and grant recipients funded under this competition must involve individuals with disabilities or parents of individuals with disabilities ages birth through 26 in planning, implementing, and evaluating the project (see section 682(a)(1)(A) of IDEA).

IV. Application and Submission Information

1. **Address to Request Application Package:** Education Publications Center (ED Pubs), P.O. Box 1398, Jessup, MD 20794–1398. Telephone, toll free: 1–877–433–7827. FAX: (301) 470–1244. If you use a telecommunications device for the deaf (TDD), call, toll free: 1–877–576–7734.

You can contact ED Pubs at its Web site, also: <http://www.ed.gov/pubs/edpubs.html> or at its e-mail address: edpubs@inet.ed.gov.

If you request an application package from ED Pubs, be sure to identify this competition as follows: CFDA number 84.327B.

Individuals with disabilities can obtain a copy of the application package in an accessible format (e.g., braille,

large print, audiotape, or computer diskette) by contacting the person or team listed under *Accessible Format* in section VIII of this notice.

2. **Content and Form of Application Submission:** Requirements concerning the content of an application, together with the forms you must submit, are in the application package for this competition. **Page Limit:** The application narrative (Part III of the application) is where you, the applicant, address the selection criteria that reviewers use to evaluate your application. You must limit the application narrative to the equivalent of no more than 50 pages, using the following standards:

- A "page" is 8.5" × 11", on one side only, with 1" margins at the top, bottom, and both sides.
- Double space (no more than three lines per vertical inch) all text in the application narrative, including titles, headings, footnotes, quotations, references, abstracts, and captions, as well as all text in charts, tables, figures, and graphs.
- Use a font that is either 12 point or larger or no smaller than 10 pitch (characters per inch).

The page limit does not apply to Part I, the cover sheet; Part II, the budget section, including the narrative budget justification; Part IV, the assurances and certifications; or the one-page abstract, the resumes, the bibliography, the references, or the letters of support. However, the page limit does apply to all of the application narrative section (Part III).

We will reject your application if you exceed the page limit or if you apply other standards and exceed the equivalent of the page limit.

3. **Submission Dates and Times:** **Applications Available:** August 20, 2009.

Deadline for Transmittal of Applications: October 19, 2009.

Applications for grants under this competition may be submitted electronically using the Electronic Grant Application System (e-Application) accessible through the Department's e-Grants site, or in paper format by mail or hand delivery. For information (including dates and times) about how to submit your application electronically, or in paper format by mail or hand delivery, please refer to section IV. 6. **Other Submission Requirements** of this notice.

We do not consider an application that does not comply with the deadline requirements.

Individuals with disabilities who need an accommodation or auxiliary aid in connection with the application

process should contact the person listed under *For Further Information Contact* in section VII of this notice. If the Department provides an accommodation or auxiliary aid to an individual with a disability in connection with the application process, the individual's application remains subject to all other requirements and limitations in this notice.

Deadline for Intergovernmental Review: December 18, 2009.

4. *Intergovernmental Review:* This competition is subject to Executive Order 12372 and the regulations in 34 CFR part 79. Information about Intergovernmental Review of Federal Programs under Executive Order 12372 is in the application package for this competition.

5. *Funding Restrictions:* We reference regulations outlining funding restrictions in the *Applicable Regulations* section of this notice.

6. *Other Submission Requirements:* Applications for grants under this competition may be submitted electronically or in paper format by mail or hand delivery.

a. Electronic Submission of Applications

If you choose to submit your application to us electronically, you must use e-Application, accessible through the Department's e-Grants Web site at: <http://e-grants.ed.gov>.

While completing your electronic application, you will be entering data online that will be saved into a database. You may not e-mail an electronic copy of a grant application to us.

Please note the following:

- Your participation in e-Application is voluntary.

- You must complete the electronic submission of your grant application by 4:30:00 p.m., Washington, DC time, on the application deadline date. E-Application will not accept an application for this competition after 4:30:00 p.m., Washington, DC time, on the application deadline date. Therefore, we strongly recommend that you do not wait until the application deadline date to begin the application process.

- The hours of operation of the e-Grants Web site are 6:00 a.m. Monday until 7:00 p.m. Wednesday; and 6:00 a.m. Thursday until 8:00 p.m. Sunday, Washington, DC time. Please note that, because of maintenance, the system is unavailable between 8:00 p.m. on Sundays and 6:00 a.m. on Mondays, and between 7:00 p.m. on Wednesdays and 6:00 a.m. on Thursdays, Washington, DC time. Any modifications to these

hours are posted on the e-Grants Web site.

- You will not receive additional point value because you submit your application in electronic format, nor will we penalize you if you submit your application in paper format.

- You must submit all documents electronically, including all information you typically provide on the following forms: the Application for Federal Assistance (SF 424), the Department of Education Supplemental Information for SF 424, Budget Information—Non-Construction Programs (ED 524), and all necessary assurances and certifications. You must attach any narrative sections of your application as files in a .DOC (document), .RTF (rich text), or .PDF (Portable Document) format. If you upload a file type other than the three file types specified in this paragraph or submit a password protected file, we will not review that material.

- Your electronic application must comply with any page limit requirements described in this notice.

- Prior to submitting your electronic application, you may wish to print a copy of it for your records.

- After you electronically submit your application, you will receive an automatic acknowledgment that will include a PR/Award number (an identifying number unique to your application).

- Within three working days after submitting your electronic application, fax a signed copy of the SF 424 to the Application Control Center after following these steps:

- Print SF 424 from e-Application.

- The applicant's Authorizing Representative must sign this form.

- Place the PR/Award number in the upper right hand corner of the hard-copy signature page of the SF 424.

- Fax the signed SF 424 to the Application Control Center at (202) 245-6272.

- We may request that you provide us original signatures on other forms at a later date.

Application Deadline Date Extension in Case of System Unavailability: If you are prevented from electronically submitting your application on the application deadline date because e-Application is unavailable, we will grant you an extension of one business day to enable you to transmit your application electronically, by mail, or by hand delivery. We will grant this extension if—

- You are a registered user of e-Application and you have initiated an electronic application for this competition; and

- (2) (a) E-Application is unavailable for 60 minutes or more between the hours of 8:30 a.m. and 3:30 p.m., Washington, DC time, on the application deadline date; or

- (b) E-Application is unavailable for any period of time between 3:30 p.m. and 4:30:00 p.m., Washington, DC time, on the application deadline date.

We must acknowledge and confirm these periods of unavailability before granting you an extension. To request this extension or to confirm our acknowledgment of any system unavailability, you may contact either (1) the person listed elsewhere in this notice under *For Further Information Contact* (see VII. Agency Contact) or (2) the e-Grants help desk at 1-888-336-8930. If e-Application is unavailable due to technical problems with the system and, therefore, the application deadline is extended, an e-mail will be sent to all registered users who have initiated an e-Application.

Extensions referred to in this section apply only to the unavailability of e-Application. If e-Application is available, and, for any reason, you are unable to submit your application electronically or you do not receive an automatic acknowledgment of your submission, you may submit your application in paper format by mail or hand delivery in accordance with the instructions in this notice.

b. Submission of Paper Applications by Mail

If you submit your application in paper format by mail (through the U.S. Postal Service or a commercial carrier), you must mail the original and two copies of your application, on or before the application deadline date, to the Department at the following address: U.S. Department of Education, Application Control Center, *Attention:* (CFDA Number 84.327B), LBJ Basement Level 1, 400 Maryland Avenue, SW., Washington, DC 20202-4260.

You must show proof of mailing consisting of one of the following:

- A legibly dated U.S. Postal Service postmark.

- A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

- A dated shipping label, invoice, or receipt from a commercial carrier.

- Any other proof of mailing acceptable to the Secretary of the U.S. Department of Education.

If you mail your application through the U.S. Postal Service, we do not accept either of the following as proof of mailing:

- A private metered postmark.

(2) A mail receipt that is not dated by the U.S. Postal Service.

If your application is postmarked after the application deadline date, we will not consider your application.

Note: The U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, you should check with your local post office.

c. Submission of Paper Applications by Hand Delivery

If you submit your application in paper format by hand delivery, you (or a courier service) must deliver the original and two copies of your application by hand, on or before the application deadline date, to the Department at the following address: U.S. Department of Education, Application Control Center, *Attention:* (CFDA Number 84.327B), 550 12th Street, SW., Room 7041, Potomac Center Plaza, Washington, DC 20202-4260. The Application Control Center accepts hand deliveries daily between 8:00 a.m. and 4:30:00 p.m., Washington, DC time, except Saturdays, Sundays, and Federal holidays.

Note for Mail or Hand Delivery of Paper Applications: If you mail or hand deliver your application to the Department—

(1) You must indicate on the envelope and—if not provided by the Department—in Item 11 of the SF 424 the CFDA number, including suffix letter, if any, of the competition under which you are submitting your application; and

(2) The Application Control Center will mail to you a notification of receipt of your grant application. If you do not receive this grant notification within 15 business days from the application deadline date, you should call the U.S. Department of Education Application Control Center at (202) 245-6288.

V. Application Review Information

1. *Selection Criteria:* The selection criteria for this competition are from 34 CFR 75.210 and are listed in the application package.

2. *Review and Selection Process:* In the past, the Department has had difficulty finding peer reviewers for certain competitions because so many individuals who are eligible to serve as peer reviewers have conflicts of interest. The Standing Panel requirements under IDEA also have placed additional constraints on the availability of reviewers. Therefore, the Department has determined that, for some discretionary grant competitions, applications may be separated into two or more groups and ranked and selected for funding within the specific groups. This procedure will make it easier for the Department to find peer reviewers

by ensuring that greater numbers of individuals who are eligible to serve as reviewers for any particular group of applicants will not have conflicts of interest. It also will increase the quality, independence, and fairness of the review process while permitting panel members to review applications under discretionary grant competitions for which they also have submitted applications. However, if the Department decides to select an equal number of applications in each group for funding, this may result in different cut-off points for fundable applications in each group.

VI. Award Administration Information

1. *Award Notices:* If your application is successful, we notify your U.S. Representative and U.S. Senators and send you a Grant Award Notification (GAN). We may notify you informally, also.

If your application is not evaluated or not selected for funding, we notify you.

2. *Administrative and National Policy Requirements:* We identify administrative and national policy requirements in the application package and reference these and other requirements in the *Applicable Regulations* section of this notice.

We reference the regulations outlining the terms and conditions of an award in the *Applicable Regulations* section of this notice and include these and other specific conditions in the GAN. The GAN also incorporates your approved application as part of your binding commitments under the grant.

3. *Reporting:* At the end of your project period, you must submit a final performance report, including financial information, as directed by the Secretary. If you receive a multi-year award, you must submit an annual performance report that provides the most current performance and financial expenditure information as directed by the Secretary under 34 CFR 75.118. The Secretary may also require more frequent performance reports under 34 CFR 75.720(c). For specific requirements on reporting, please go to <http://www.ed.gov/fund/grant/apply/appforms/appforms.html>.

4. *Performance Measures:* Under the Government Performance and Results Act of 1993 (GPRA), the Department has established a set of performance measures, including long-term measures, that are designed to yield information on various aspects of the effectiveness and quality of the Technology and Media Services for Individuals with Disabilities program. These measures focus on the extent to which projects provide high-quality

products and services, are relevant to improving outcomes for children with disabilities, and contribute to improving outcomes for children with disabilities. We will collect data on these measures from the project funded under this competition.

The grantee will be required to report information on its project's performance in annual reports to the Department (34 CFR 75.590).

VII. Agency Contact

FOR FURTHER INFORMATION CONTACT:

Glinda Hill, U.S. Department of Education, 400 Maryland Avenue, SW., Room 4063, PCP, Washington, DC 20202-2550. Telephone: (202) 245-7376.

If you use a TDD, call the Federal Relay Service (FRS), toll free, at 1-800-877-8339.

VIII. Other Information

Accessible Format: Individuals with disabilities can obtain this document and a copy of the application package in an accessible format (e.g., Braille, large print, audiotape, or computer diskette) by contacting the Grants and Contracts Services Team, U.S. Department of Education, 400 Maryland Avenue, SW., Room 5075, PCP, Washington, DC 20202-2550. Telephone: (202) 245-7363. If you use a TDD, call the FRS, toll free, at 1-800-877-8339.

Electronic Access to This Document: You can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Adobe Portable Document Format (PDF) on the Internet at the following site: <http://www.ed.gov/news/fedregister>.

To use PDF you must have Adobe Acrobat Reader, which is available free at this site. If you have questions about using PDF, call the U.S. Government Printing Office (GPO), toll free, at 1-888-293-6498; or in the Washington, DC area at (202) 512-1530.

Note: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: <http://www.gpoaccess.gov/nara/index.html>.

Delegation of Authority: The Secretary of Education has delegated authority to Andrew J. Pepin, Executive Administrator for the Office of Special Education and Rehabilitative Services to perform the functions of the Assistant Secretary for Special Education and Rehabilitative Services.

Dated: August 14, 2009.

Andrew J. Pepin,

Executive Administrator for Special Education and Rehabilitative Services.

[FR Doc. E9-20050 Filed 8-19-09; 8:45 am]

BILLING CODE 4000-01-P

ELECTION ASSISTANCE COMMISSION

Sunshine Act Notice

AGENCY: U.S. Election Assistance Commission.

ACTION: Notice of Public Meeting & Hearing Agenda.

DATE & TIME: Wednesday, September 2, 2009, 10 a.m.–12 p.m. EDT (Morning Session); 1 p.m.–4 p.m. EDT (Afternoon Session).

PLACE: U.S. Election Assistance Commission, 1225 New York Ave, NW., Suite 150, Washington, DC 20005 (Metro Stop: Metro Center).

AGENDA: The Commission will hold a public meeting to consider administrative matters. The Commission will receive an update about UOCAVA activities. The Commission will hear panelists discuss the July 19, 2009 NASS Resolution on Help America Vote Act of 2002 (HAVA) Grant and Payment Distinction. The Commission will have a hearing regarding Commercial-Off-The-Shelf (COTS) Software/Hardware.

Members of the public may observe but not participate in EAC meetings unless this notice provides otherwise. Members of the public may use small electronic audio recording devices to record the proceedings. The use of other recording equipment and cameras requires advance notice to and coordination with the Commission's Communications Office.*

* View EAC Regulations Implementing Government in the Sunshine Act.

This meeting will be open to the public.

PERSON TO CONTACT FOR INFORMATION: Bryan Whitener, Telephone: (202) 566-3100.

Alice Miller,

Chief Operating Officer, U.S. Election Assistance Commission.

[FR Doc. E9-20070 Filed 8-18-09; 11:15 am]

BILLING CODE 6820-KF-P

DEPARTMENT OF ENERGY

High Energy Physics Advisory Panel

AGENCY: Department of Energy.

ACTION: Notice of Reestablishment of the High Energy Physics Advisory Panel Charter.

SUMMARY: Pursuant to Section 14(a)(2)(A) of the Federal Advisory Committee Act, App. 2, and section 102-3.65, title 41, Code of Federal Regulations and following consultation with the Committee Management Secretariat, General Services Administration, notice is hereby given that the High Energy Physics Advisory Panel has been reestablished for a two-year period.

The Panel will provide advice to the Associate Director, Office of High Energy Physics, Office of Science (DOE), and the Assistant Director, Mathematical & Physical Sciences Directorate (NSF), on long-range planning and priorities in the national high-energy physics program. The Secretary of Energy has determined that reestablishment of the Panel is essential to conduct business of the Department of Energy and the National Science Foundation and is in the public interest in connection with the performance of duties imposed by law upon the Department of Energy. The Panel will continue to operate in accordance with the provisions of the Federal Advisory Committee Act (Pub. L. 92-463), the General Services Administration Final Rule on Federal Advisory Committee Management, and other directives and instructions issued in implementation of those acts.

FOR FURTHER INFORMATION CONTACT: Ms. Rachel Samuel, Deputy Committee Management Officer, U.S. Department of Energy. Telephone: (202) 586-3279.

Issued in Washington DC, on August 14, 2009.

Eric G. Nicoll,

Committee Management Officer.

[FR Doc. E9-19995 Filed 8-19-09; 8:45 am]

BILLING CODE 6450-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. IC09-714-001]

Commission Information Collection Activities (FERC-714); Comment Request; Submitted for OMB Review

August 13, 2009.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice.

SUMMARY: In compliance with the requirements of section 3507 of the Paperwork Reduction Act of 1995, 44

U.S.C. 3507, the Federal Energy Regulatory Commission (Commission or FERC) has submitted the information collection described below to the Office of Management and Budget (OMB) for review of the information collection requirements. Any interested person may file comments directly with OMB and should address a copy of those comments to the Commission as explained below. The Commission received no comments in response to the **Federal Register** notice (74FR 22913, 5/15/2009) and has made this notation in its submission to OMB.

DATES: Comments on the collection of information are due by September 21, 2009.

ADDRESSES: Address comments on the collection of information to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: Federal Energy Regulatory Commission Desk Officer. Comments to OMB should be filed electronically, *c/o oira_submission@omb.eop.gov* and include OMB Control Number 1902-0140 as a point of reference. The Desk Officer may be reached by telephone at 202-395-4638.

A copy of the comments should also be sent to the Federal Energy Regulatory Commission and should refer to Docket No. IC09-714-001. Comments may be filed either electronically or in paper format. Those persons filing electronically do not need to make a paper filing. Documents filed electronically via the Internet must be prepared in an acceptable filing format and in compliance with the Federal Energy Regulatory Commission submission guidelines. Complete filing instructions and acceptable filing formats are available at <http://www.ferc.gov/help/submission-guide/electronic-media.asp>. To file the document electronically, access the Commission's website and click on Documents & Filing, E-Filing (<http://www.ferc.gov/docs-filing/efiling.asp>), and then follow the instructions for each screen. First time users will have to establish a user name and password. The Commission will send an automatic acknowledgement to the sender's e-mail address upon receipt of comments.

For paper filings, an original and 2 copies of the comments should be submitted to the Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street, NE., Washington, DC 20426, and should refer to Docket No. IC09-714-001.

All comments may be viewed, printed or downloaded remotely via the Internet through FERC's homepage using the "eLibrary" link. For user assistance,

contact ferconlinesupport@ferc.gov or toll-free at (866) 208-3676 or for TTY, contact (202) 502-8659.

FOR FURTHER INFORMATION CONTACT: Ellen Brown may be reached by telephone at (202) 502-8663, by fax at (202) 273-0873, and by e-mail at ellen.brown@ferc.gov.

SUPPLEMENTARY INFORMATION: FERC-714 (Annual Electric Balancing Authority Area and Planning Area Report (formerly called "Annual Electric Control and Planning Area Report"), OMB No. 1902-0140) is used by the Commission to implement Sections 4, 202, 207, 210, 211-213, 304, 309 and 311 of the Federal Power Act (FPA) as amended (49 Stat. 838; 16 U.S.C. 791 a-825r), Section 3(4) of Public Utility Regulatory Policies Act of 1978, 26

U.S.C. 2602 and sections 1211, 1221, 1231, 1241 and 1242 of the Energy Policy Act of 2005 (Pub. L. 109-58) (119 Stat. 594). The filing requirements are found at 18 CFR 141.51. The information allows the Commission to analyze power system operations, to estimate the effect of changes in power system operations that result from the installation of a new generating unit or plant, transmission facilities, energy transfers between systems and/or new points of interconnections. The analyses also serve to correlate rates and charges, assess reliability and other operating attributes in regulatory proceedings, monitor market trends and behaviors, and determine the competitive impacts of proposed mergers, acquisitions and dispositions.

Action: The Commission is requesting a three-year extension of the current expiration date for the FERC-714, with no changes to the reporting requirements.

Burden Statement: There has been an administrative change in the burden estimate due to: (1) An informal, limited survey of respondents in order to obtain improved estimates of both the burden and cost, (2) a change in the number of filers resulting from the formation of regional transmission organizations (and other similar entities) encompassing numerous former Control Areas (Balancing Authority Areas), and (3) the switch to an all-electronic filing in 2007 (from a paper and diskette filing). Public reporting burden for this collection is estimated as follows.

FERC data collection	Number of respondents annually (1)	Number of responses per respondent (2)	Average burden hours per response (3)	Total annual burden hours (1)x(2)x(3)
FERC-714	215	1	87 ¹	18,705 ¹

[Note: These figures may not be exact, due to rounding.]

The total estimated annual cost burden¹ to respondents is \$885,155 (215 respondents x \$4,117 per respondent).

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

The estimate of cost for respondents is based upon salaries for professional and clerical support, as well as direct

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

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

Kimberly D. Bose,
Secretary.

[FR Doc. E9-19926 Filed 8-19-09; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY
Federal Energy Regulatory Commission

[Project No. 637-064]

Public Utility District No. 1 Chelan County (PUD); Notice of Application To Amend License and Soliciting Comments, Motions To Intervene, and Protests

August 13, 2009.

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

- a. *Application Type:* Amendment to License.
- b. Project No. 637-064.
- c. *Date Filed:* June 15, 2009.
- d. *Applicant:* Public Utility District No. 1 Chelan County (PUD).
- e. *Name of Project:* Lake Chelan Hydroelectric Project.
- f. *Location:* The project is located on the Chelan River in Chelan County near the City of Chelan, Washington.
- g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. §§ 791(a)-825(r).
- h. *Applicant Contact:* Michele Smith, Licensing and Compliance Manager at P.O. Box 1231, Wenatchee, Washington. Phone: (509) 661-4186.

i. *FERC Contact:* Any questions on this notice should be addressed to Brian Romanek at (202) 502-6175 or by e-mail: Brian.Romanek@ferc.gov.

¹ These figures are based on a limited survey of 8 respondents. The average estimated annual burden per respondent (and filing) is 87 hours.

Using the number of hours spent by each specific job title or level, the estimated annual staff cost was calculated based on the nationwide average annual salary for various levels of engineers, found in the Occupational Outlook Handbook (2008-09 Edition) [posted on the Bureau of Labor Statistics website at <http://www.bls.gov/oco/ocos027.htm>]. The estimated average annual staff cost for preparing the FERC-714 was \$3,603. The respondents surveyed had additional costs of \$514, on average per year. Therefore the total estimated average annual cost per respondent is \$4,117.

Deadline for filing comments and/or motions: September 14, 2009.

j. Deadline for filing motions to intervene and protests, comments, and recommendations are due 30 days from the issuance date of this notice. All documents (original and eight copies) should be filed with: Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

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

k. *Description of the Application:* The PUD, licensee for the Lake Chelan Hydroelectric Project, has filed a request for Commission approval to amend the Chelan Riverwalk Park boundary and project boundary by removing 0.26 acre of land. The land is located in the City of Chelan (city) and is owned by the city. This proposal would be consistent with the city's master plan and would accommodate the city's planning effort to develop within the city and to redesign and improve the entrance to the park.

l. *Location of the Application:* This filing is available for review at the Commission or may be viewed on the Commission's Web site at <http://www.ferc.gov>, using the "eLibrary" link. Enter the docket number excluding the last three digits in the docket number field to access the document. You may also register online at <http://www.ferc.gov/docs-filing/esubscription.asp> to be notified via e-mail of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support at FERCOnlineSupport@ferc.gov or toll-free at (866) 208-3676, or for TTY, contact (202) 502-8659. A copy is also available for inspection and reproduction at the address in item (h) above.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all

protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

o. *Filing and Service of Responsive Documents:* Any filings must bear in all capital letters the title "COMMENTS", "PROTEST", or "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing refers. All documents (original and eight copies) should be filed with: Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington DC 20426. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

p. Agency Comments—Federal, State, and local agencies are invited to file comments on the application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

q. 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 at <http://www.ferc.gov> under the "e-Filing" link.

Kimberly D. Bose,

Secretary.

[FR Doc. E9-19924 Filed 8-19-09; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings No. 2

August 12, 2009.

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

Docket Numbers: RP09-758-002.

Applicants: Southern Star Central Gas Pipeline, Inc.

Description: Southern Star Central Gas Pipeline, Inc submits Sub. First Revised Sheet 149 *et al.* of its FERC Gas Tariff, Original Volume 1, to be effective 7/10/09.

Filed Date: 08/10/2009.

Accession Number: 20090810-0042.

Comment Date: 5 p.m. Eastern Time on Monday, August 24, 2009.

Docket Numbers: RP09-790-001.

Applicants: MIGC LLC.

Description: MIGC LLC submits Substitute First Revised Sheet No. 90A to its FERC Gas Tariff, Second Revised Volume No 1.

Filed Date: 08/10/2009.

Accession Number: 20090811-0071.

Comment Date: 5 p.m. Eastern Time on Monday, August 24, 2009.

Docket Numbers: RP09-863-001.

Applicants: Columbia Gas Transmission, LLC.

Description: Columbia Gas Transmission, LLC submits Sixth Revised Sheet No. 503 *et al.* to its FERC Gas Tariff, Third Revised Volume No 1.

Filed Date: 08/10/2009.

Accession Number: 20090810-0043.

Comment Date: 5 p.m. Eastern Time on Monday, August 24, 2009.

Docket Numbers: RP96-200-226.

Applicants: CenterPoint Energy Gas Transmission Company.

Description: CenterPoint Energy Gas Transmission Company submits amended negotiated rate agreements between CEGT and CenterPoint Energy Services, Inc *et al.*

Filed Date: 08/10/2009.

Accession Number: 20090811-0070.

Comment Date: 5 p.m. Eastern Time on Monday, August 24, 2009.

Docket Numbers: RP96-200-227.

Applicants: CenterPoint Energy Gas Transmission Comp.

Description: CenterPoint Energy Gas Transmission Company submits amended negotiated rate agreement between CEGT and Enbridge Marketing, LP.

Filed Date: 08/10/2009.

Accession Number: 20090811-0069.

Comment Date: 5 p.m. Eastern Time on Monday, August 24, 2009.

Docket Numbers: RP96-200-228.

Applicants: CenterPoint Energy Gas Transmission Comp.

Description: CenterPoint Energy Gas Transmission Company submits amended negotiated rate agreement between CEGT and Laclede Energy Resources, Inc.

Filed Date: 08/10/2009.

Accession Number: 20090811-0068.

Comment Date: 5 p.m. Eastern Time on Monday, August 24, 2009.

Docket Numbers: RP09-679-002.

Applicants: Wyckoff Gas Storage Company, LLC.

Description: Wyckoff Gas Storage Co, LLC submits Second Substitute First Revised Sheet 31 to FERC Gas Tariff, Original Volume 1 in compliance with FERC's letter order issued on 7/13/09, to be effective 8/1/09.

Filed Date: 08/11/2009.

Accession Number: 20090811-0110.

Comment Date: 5 p.m. Eastern Time on Monday, August 24, 2009.

Docket Numbers: RP09-855-001.

Applicants: Natural Gas Pipeline Company of America.

Description: Natural Gas Pipeline Company of America LLC submits Substitute First Revised Sheet No. 605 to its FERC Gas Tariff, Seventh Revised Volume No. 1.

Filed Date: 08/11/2009.

Accession Number: 20090811-0117.

Comment Date: 5 p.m. Eastern Time on Monday, August 24, 2009.

Any person desiring to protest this filing must file in accordance with Rule 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.211). Protests to this filing 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. Such protests must be filed on or before 5 p.m. Eastern time on the specified comment date. Anyone filing a protest must serve a copy of that document on all the parties to the proceeding.

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Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. E9-19934 Filed 8-19-09; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings No. 1

August 12, 2009.

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

Docket Numbers: RP09-881-000.

Applicants: Questar Southern Trails Pipeline Company.

Description: Questar Southern Trails Pipeline Company submits Fourth Revised Sheet No. 6 to its FERC Gas Tariff, Original Volume No 1.

Filed Date: 08/11/2009.

Accession Number: 20090811-0073.

Comment Date: 5 p.m. Eastern Time on Monday, August 24, 2009.

Docket Numbers: RP09-882-000.

Applicants: Questar Pipeline Company.

Description: Questar Pipeline Company submits First Revised Sheet No 172D to its FERC Gas Tariff, First Revised Volume No 1.

Filed Date: 08/11/2009.

Accession Number: 20090811-0072.

Comment Date: 5 p.m. Eastern Time on Monday, August 24, 2009.

Docket Numbers: RP09-884-000.

Applicants: Mojave Pipeline Company.

Description: Mojave Pipeline Co submits Twenty-Seventh Revised Sheet No. 11 to its FERC Gas Tariff, Second Revised Volume No. 1.

Filed Date: 08/11/2009.

Accession Number: 20090811-0116.

Comment Date: 5 p.m. Eastern Time on Monday, August 24, 2009.

Docket Numbers: RP09-885-000.

Applicants: Colorado Interstate Gas Company.

Description: Colorado Interstate Gas Company submits Forty-Fifth Revised Sheet No 11 to its FERC Gas Tariff, First Revised Volume No 1.

Filed Date: 08/11/2009.

Accession Number: 20090811-0115.

Comment Date: 5 p.m. Eastern Time on Monday, August 24, 2009.

Docket Numbers: RP09-886-000.

Applicants: Cheyenne Plains Gas Pipeline Company LLC.

Description: Cheyenne Plains Gas Pipeline Company, LLC submits Ninth Revised Sheet No 20 to its FERC Gas Tariff, Original Volume No 1.

Filed Date: 08/11/2009.

Accession Number: 20090811-0114.

Comment Date: 5 p.m. Eastern Time on Monday, August 24, 2009.

Docket Numbers: RP09-887-000.

Applicants: Wyoming Interstate Company, Ltd.

Description: Wyoming Interstate Company, LTD submits Twenty-Second Revised Sheet No 4B to its FERC Gas Tariff, Second Revised Volume No 2.

Filed Date: 08/11/2009.

Accession Number: 20090811-0113.

Comment Date: 5 p.m. Eastern Time on Monday, August 24, 2009.

Docket Numbers: RP09-888-000.

Applicants: Young Gas Storage Company, Ltd.

Description: Young Gas Storage Company, LTD submits Seventeenth Revised Sheet No 4 to its FERC Gas Tariff, Original Volume No 1.

Filed Date: 08/11/2009.

Accession Number: 20090811-0112.

Comment Date: 5 p.m. Eastern Time on Monday, August 24, 2009.

Docket Numbers: RP09-889-000.

Applicants: El Paso Natural Gas Company.

Description: El Paso Natural Gas Company submits Fifth Revised Sheet No 29.01 to its FERC Gas Tariff, Second Revised Volume No 1-A.

Filed Date: 08/11/2009.

Accession Number: 20090811-0111.

Comment Date: 5 p.m. Eastern Time on Monday, August 24, 2009.

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

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Persons unable to file electronically should submit an original and 14 copies

of the intervention or protest to the Federal Energy Regulatory Commission, 888 First St. NE., Washington, DC 20426.

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Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. E9-19933 Filed 8-19-09; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

August 11, 2009.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER00-3251-021; ER98-1734-018; ER01-1919-015; ER01-1147-009; ER01-513-024; ER99-2404-014

Applicants: Exelon Generation Company, LLC; Commonwealth Edison Company; Exelon Energy Company; PECO Energy Company; Exelon West Medway, LLC; Exelon New England Power Marketing, LP

Description: Exelon Generation Company, LLC submits Second Revised Sheet 12A *et al.* to FERC Electric Tariff, First Revised Volume 1.

Filed Date: 08/10/2009

Accession Number: 20090811-0063

Comment Date: 5 p.m. Eastern Time on Monday, August 31, 2009

Docket Numbers: ER03-719-013; ER03-721-012; ER98-830-022

Applicants: Millennium Power Partners, L.P., New Harquahala Generating Company, LLC, New Athens Generating Company, LLC

Description: New Athens Generating Company, LLC, *et al.* Notice of non-material change in status.

Filed Date: 08/10/2009

Accession Number: 20090810-5118

Comment Date: 5 p.m. Eastern Time on Monday, August 31, 2009

Docket Numbers: ER06-740-004; ER02-1081-005; ER08-1189-002; ER99-2915-003

Applicants: Indeck-Olean Limited Partnership, Indeck-Oswego Limited Partnership, Indeck Energy Services of Silver Springs, Indeckyerkes LTD Partnership

Description: Notice of Non-material Change In Status for Indeck Energy Services of Silver Springs, Inc., *et al.*

Filed Date: 08/10/2009

Accession Number: 20090810-5076

Comment Date: 5 p.m. Eastern Time on Monday, August 31, 2009

Docket Numbers: ER06-747-002

Applicants: Equilon Enterprises LLC
Description: Equilon Enterprises LLC submits triennial market power update in compliance with requirements of section 35.37 of the regulations the FERC and with letter order dated 5/22/06 granting Seller market-based rate authorization.

Filed Date: 08/10/2009

Accession Number: 20090811-0062

Comment Date: 5 p.m. Eastern Time on Friday, October 09, 2009

Docket Numbers: ER07-509-001; ER08-584-002

Applicants: California Power Holdings, LLC, Thompson River Power, LLC

Description: California Power Holdings, LLC, *et al.* Notice of Non-Material Change in Status.

Filed Date: 08/11/2009

Accession Number: 20090811-5066

Comment Date: 5 p.m. Eastern Time on Tuesday, September 01, 2009

Docket Numbers: ER09-1064-003

Applicants: California Independent System Operator Corporation

Description: California Independent System Operator Corp submits instant filing in compliance with FERC's 6/26/09 Order.

Filed Date: 08/10/2009

Accession Number: 20090811-0024

Comment Date: 5 p.m. Eastern Time on Monday, August 31, 2009

Docket Numbers: ER09-1554-000

Applicants: RMH Energy, LP

Description: RMH Energy, LP submits application for authorization to make wholesale sales of energy, capacity, and ancillary services at negotiated, market based rates.

Filed Date: 08/10/2009

Accession Number: 20090810-0038

Comment Date: 5 p.m. Eastern Time on Monday, August 31, 2009

Docket Numbers: ER09-1565-000

Applicants: PJM Interconnection, L.L.C.

Description: PJM Interconnection submits executed interconnection service agreement among PJM, Visteon

Systems, LLC, and PECO Energy Company.

Filed Date: 08/10/2009

Accession Number: 20090810-0039

Comment Date: 5 p.m. Eastern Time on Monday, August 31, 2009

Docket Numbers: ER09-1566-000

Applicants: Avista Corporation

Description: Avista Corporation submits its Average System Cost filing for sales of electric power to the Bonneville Power Administration.

Filed Date: 08/10/2009

Accession Number: 20090810-0036

Comment Date: 5 p.m. Eastern Time on Monday, August 31, 2009

Docket Numbers: ER09-1567-000

Applicants: Arizona Public Service Company

Description: APS submits revisions to its FERC Electric Rate Schedule No 182.

Filed Date: 08/10/2009

Accession Number: 20090810-0040

Comment Date: 5 p.m. Eastern Time on Monday, August 31, 2009

Docket Numbers: ER09-1568-000

Applicants: CP Energy Marketing (US) Inc.

Description: CP Energy Marketing (US), Inc submits Notice of Succession informing the Commission that they adopt EEMUS's market-based rate tariff etc.

Filed Date: 08/10/2009

Accession Number: 20090811-0025

Comment Date: 5 p.m. Eastern Time on Monday, August 31, 2009

Docket Numbers: ER09-1568-001; ER01-2262-010; ER02-783-008; ER02-855-009; ER03-438-008; ER09-370-003

Applicants: CP Energy Marketing (US) Inc.; Frederickson Power L.P.; EPCOR Merchant and Capital (US) Inc.; EPDC, Inc.; ManChief Power Company LLC; EPCOR USA North Carolina LLC

Description: Notice of Non-Material Change in Facts.

Filed Date: 08/10/2009

Accession Number: 20090810-5135

Comment Date: 5 p.m. Eastern Time on Monday, August 31, 2009

Docket Numbers: ER09-1569-000

Applicants: ISO New England Inc. & New England Power

Description: ISO New England Inc *et al.* submit revisions to the Forward Capacity Market rules, effective 10/9/09.

Filed Date: 08/10/2009

Accession Number: 20090811-0023

Comment Date: 5 p.m. Eastern Time on Monday, August 31, 2009

Take notice that the Commission received the following PURPA 210(m)(3) filings:

Docket Numbers: QM09-6-001

Applicants: PPL Electric Utilities Corp.

Description: Supplement to Application to Terminate Purchase Obligation of PPL Electric Utilities Corp.
Filed Date: 08/11/2009

Accession Number: 20090811-5068
Comment Date: 5 p.m. Eastern Time on Tuesday, September 08, 2009

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Nathaniel J. Davis, Sr.,
Deputy Secretary.

[FR Doc. E9-19932 Filed 8-19-09; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings # 1

August 12, 2009.

Take notice that the Commission received the following exempt wholesale generator filings:

Docket Numbers: EG09-82-000.
Applicants: North Hurlburt Wind, LLC.

Description: Notice of Self-Certification of Exempt Wholesale Generator Status for North Hurlburt Wind, LLC.

Filed Date: 08/12/2009.
Accession Number: 20090812-5055.
Comment Date: 5 p.m. Eastern Time on Wednesday, September 02, 2009.

Docket Numbers: EG09-83-000.
Applicants: South Hurlburt Wind, LLC.

Description: Notice of Self-Certification of Exempt Wholesale Generator Status for South Hurlburt Wind, LLC.

Filed Date: 08/12/2009.
Accession Number: 20090812-5056.
Comment Date: 5 p.m. Eastern Time on Wednesday, September 02, 2009.

Docket Numbers: EG09-84-000.
Applicants: Horseshoe Bend Wind, LLC.

Description: Notice of Self-Certification of Exempt Wholesale Generator Status for Horseshoe Bend Wind, LLC.

Filed Date: 08/12/2009.
Accession Number: 20090812-5062.
Comment Date: 5 p.m. Eastern Time on Wednesday, September 02, 2009.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER06-748-002; ER06-763-002.

Applicants: Shell Chemical LP; Motiva Enterprises LLC.

Description: Shell Chemical, LP *et al.* submits Original Sheet 1 *et al.* to FERC Electric Tariff, First Revised Volume 1 to be effective.

Filed Date: 08/10/2009.
Accession Number: 20090811-0064.
Comment Date: 5 p.m. Eastern Time on Monday, August 31, 2009.

Docket Numbers: ER08-1439-002; EL09-32-000.

Applicants: New Brunswick Power Generation Corporation.

Description: Market Power Study Compliance Filing of New Brunswick Power Generation Corporation.

Filed Date: 08/10/2009.
Accession Number: 20090810-5077.

Comment Date: 5 p.m. Eastern Time on Wednesday, September 09, 2009.

Docket Numbers: ER09-369-002.
Applicants: PJM Interconnection, L.L.C.

Description: PJM Interconnection, LLC submits an errata to certain accepted tariff sheets.

Filed Date: 08/11/2009.
Accession Number: 20090811-0077.
Comment Date: 5 p.m. Eastern Time on Tuesday, September 01, 2009.

Docket Numbers: ER09-956-001.
Applicants: Ameren Services Company.

Description: Ameren Services Company submits refund report for the Wholesale Distribution Service Agreement between Union Electric Company and Wabash Valley Power Associates, Inc on behalf of Citizens Electric Corporation.

Filed Date: 08/11/2009.
Accession Number: 20090812-0057.
Comment Date: 5 p.m. Eastern Time on Tuesday, September 01, 2009.

Docket Numbers: ER09-1027-001.
Applicants: New York Independent System Operator, Inc.

Description: New York Independent System Operator, Inc submits errata to filing and request for 4/23/09 effective date for tariff correction.

Filed Date: 08/06/2009.
Accession Number: 20090807-0088.
Comment Date: 5 p.m. Eastern Time on Thursday, August 27, 2009.

Docket Numbers: ER09-1316-002.
Applicants: Midwest Independent Transmission System Operator, Inc.

Description: Midwest Independent Transmission System Operator, Inc submits Original Service Agreement 2064 *et al.* to FERC Electric Tariff, Fourth Revised Volume 1.

Filed Date: 08/07/2009.
Accession Number: 20090810-0007.
Comment Date: 5 p.m. Eastern Time on Friday, August 28, 2009.

Docket Numbers: ER09-1379-001.
Applicants: Ameren Services Company, Union Electric Company.

Description: Ameren Services Company submits executed revised WDS Agreement between Ameren Services and the City of Jackson.

Filed Date: 08/11/2009.
Accession Number: 20090812-0059.
Comment Date: 5 p.m. Eastern Time on Tuesday, August 18, 2009.

Docket Numbers: ER09-1543-001.
Applicants: Midwest Independent Transmission System Operator, Inc.

Description: Midwest Independent Transmission System Operator, Inc submits proposed amendment to Open Access Transmission, Energy and Operating Reserve Markets Tariff.

Filed Date: 08/11/2009.
Accession Number: 20090812-0058.
Comment Date: 5 p.m. Eastern Time on Tuesday, September 01, 2009.

Docket Numbers: ER09-1558-000.
Applicants: Southwest Power Pool, Inc.

Description: Southwest Power Pool, Inc submits an Agreement for Network Integration Transmission Service.

Filed Date: 08/07/2009.
Accession Number: 20090807-0111.
Comment Date: 5 p.m. Eastern Time on Friday, August 28, 2009.

Docket Numbers: ER09-1570-000.
Applicants: NorthWestern Corporation.

Description: NorthWestern Corporation submits its Average System Cost filing for sales of electric power to the Bonneville Power Administration.

Filed Date: 08/11/2009.
Accession Number: 20090811-0067.
Comment Date: 5 p.m. Eastern Time on Tuesday, September 01, 2009.

Docket Numbers: ER09-1571-000.
Applicants: Puget Sound Energy, Inc.
Description: Puget Sound Energy submits documents related to its Residential Purchase and Sale Agreement with Bonneville Power Administration for Commission review.

Filed Date: 08/11/2009.
Accession Number: 20090811-0066.
Comment Date: 5 p.m. Eastern Time on Tuesday, September 01, 2009.

Docket Numbers: ER09-1572-000.
Applicants: PJM Interconnection, L.L.C.

Description: PJM Interconnection, LLC submits executed interim interconnection service agreement among PJM, Streater-Cayuga Ridge Wind Power LLC and Commonwealth Edison Company.

Filed Date: 08/11/2009.
Accession Number: 20090812-0060.
Comment Date: 5 p.m. Eastern Time on Tuesday, September 01, 2009.

Take notice that the Commission received the following electric securities filings:

Docket Numbers: ES09-31-002.
Applicants: Entergy Texas, Inc.
Description: Supplemental

Information of Entergy Texas, Inc.

Filed Date: 08/10/2009.
Accession Number: 20090810-5104.
Comment Date: 5 p.m. Eastern Time on Thursday, August 20, 2009.

Docket Numbers: ES09-38-001.
Applicants: Montana Alberta Tie Ltd.
Description: Supplemental Filing of Montana Alberta Tie Ltd.

Filed Date: 08/03/2009.
Accession Number: 20090803-5056.
Comment Date: 5 p.m. Eastern Time on Friday, August 21, 2009.

Docket Numbers: ES09-46-000.
Applicants: MATL LLP, Montana Alberta Tie Ltd.

Description: Application for Authorization to Issue Securities Under section 204 of the Federal Power Act.

Filed Date: 08/11/2009.
Accession Number: 20090811-5121.
Comment Date: 5 p.m. Eastern Time on Tuesday, August 25, 2009.

Take notice that the Commission received the following electric reliability filings:

Docket Numbers: RD09-9-000.
Applicants: North American Electric Reliability Corporation

Description: Petition of North American Electric Reliability Corporation for Approval of Errata Changes to Three Reliability Standards.

Filed Date: 08/12/2009.
Accession Number: 20090812-5042.
Comment Date: 5 p.m. Eastern Time on Friday, September 11, 2009.

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Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. E9-19931 Filed 8-19-09; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL09-67-000]

City of Pasadena, CA; Notice of Filing

August 13, 2009.

Take notice that on August 7, 2009, the City of Pasadena, California (Pasadena), filed a Petition for Declaratory Order, requesting the Commission to issue an Order to approve its revised Base Transmission Revenue Requirement and its High Voltage Transmission Revenue Requirement, to become effective October 1, 2009, pursuant to Rules 205 and 207 of the Commission's Rules of Practice and Procedure, 18 CFR 385.205 and 385.207, and § 26.1.1 of the California Independent System Operator Corporation Tariff.

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.

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Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

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Comment Date: 5 p.m. Eastern Time on September 8, 2009.

Kimberly D. Bose,
Secretary.

[FR Doc. E9-19925 Filed 8-19-09; 8:45 am]
BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EF09-2011-000]

Bonneville Power Administration; Notice of Filing

August 13, 2009.

Take notice that on July 31, 2009, Bonneville Power Administration filed an application for confirmation and approval of its proposed 2010 wholesale power and transmission rates, to become effective October 1, 2009 through September 30, 2011, pursuant to sections 7(a)(2), 7(i)(6) and 7(k) of the Pacific Northwest Electric Power Planning and Conservation Act, 16 U.S.C. 839e(a)(2), 839e(1)(6), and 839e(k); Subpart B of Part 300 of the Commission's regulations, 18 CFR Part 300; and the Federal Columbia River Transmission System Act of 1974.

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 email FERCOnlineSupport@ferc.gov, or call (866) 208-3676 (toll free). For TTY, call (202) 502-8659.

Comment Date: 5 p.m. Eastern Time on August 31, 2009.

Kimberly D. Bose,
Secretary.

[FR Doc. E9-19927 Filed 8-19-09; 8:45 am]
BILLING CODE 6717-01-P

ENVIRONMENTAL PROTECTION AGENCY

[FRL-8946-4]

Clean Water Act Section 303(d): Availability of 12 Total Maximum Daily Loads (TMDL) in Louisiana

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability.

SUMMARY: This notice announces the availability for comment of the

administrative record files for 12 TMDLs and the calculations for these TMDLs prepared by EPA Region 6 for waters listed in the Atchafalaya River and the Mississippi River Basins of Louisiana, under Section 303(d) of the Clean Water Act (CWA). These TMDLs were completed in response to a court order in the lawsuit styled *Sierra Club, et al. v. Clifford, et al.*, No. 96-0527, (E.D. La.).

DATES: Comments must be submitted in writing to EPA on or before September 21, 2009.

ADDRESSES: Comments on the 12 TMDLs should be sent to Diane Smith, Environmental Protection Specialist, Water Quality Protection Division, U.S. Environmental Protection Agency Region 6, 1445 Ross Ave., Dallas, TX 75202-2733 or e-mail: smith.diane@epa.gov. For further information, contact Diane Smith at (214) 665-2145 or fax 214.665.7373. The administrative record files for the 12 TMDLs are available for public inspection at this address as well. Documents from the administrative record files may be viewed at <http://www.epa.gov/earth1r6/6wq/npdes/tmdl/index.htm>, or obtained by calling or writing Ms. Smith at the above address. Please contact Ms. Smith to schedule an inspection.

FOR FURTHER INFORMATION CONTACT: Diane Smith at (214) 665-2145.

SUPPLEMENTARY INFORMATION: In 1996, two Louisiana environmental groups, the Sierra Club and Louisiana Environmental Action Network (plaintiffs), filed a lawsuit in Federal Court against the EPA, styled *Sierra Club, et al. v. Clifford, et al.*, No. 96-0527, (E.D. La.). Among other claims, plaintiffs alleged that EPA failed to establish Louisiana TMDLs in a timely manner. EPA proposes 12 of these TMDLs pursuant to a consent decree entered in this lawsuit.

EPA Seeks Comment on 12 TMDLs

By this notice EPA is seeking comment on the following 12 TMDLs for waters located within Louisiana basins:

Subsegment	Waterbody name	Pollutant
070203	Devil's Swamp Lake and Bayou Baton Rouge	Lead, and Turbidity.
070503	Capitol Lake	Dissolved Oxygen, Total Phosphorus, and Total Nitrogen.
070504	Monte Sano Bayou	Chloride.
010301	West Atchafalaya Basin Floodway	Mercury.
010401	East Atchafalaya Basin and Morganza Floodway South to Interstate 10 Canal.	Mercury.
010501	Lower Atchafalaya Basin Floodway	Mercury.
010601	Crow Bayou, Bayou Blue, and Tributaries	Chloride, Sulfate, and TDS.

EPA requests that the public provide to EPA any water quality related data and information that may be relevant to the calculations for the 12 TMDLs. EPA will review all data and information submitted during the public comment period and revise the TMDLs where appropriate. EPA will then forward the TMDLs to the Louisiana Department of Environmental Quality (LDEQ). The LDEQ will incorporate the TMDLs into its current water quality management plan.

Dated: August 7, 2009.

Claudia Hosch,

Acting Director, Water Quality Protection Division, EPA Region 6.

[FR Doc. E9-20027 Filed 8-19-09; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

[FRL-8944-6]

Clean Water Act Section 303(d): Availability of List Decisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability.

SUMMARY: This action announces the availability of EPA decisions identifying water quality limited segments and associated pollutants in Arizona to be listed pursuant to Clean Water Act section 303(d)(2), and requests public comment. Section 303(d)(2) requires that states submit and EPA approve or disapprove lists of waters for which existing technology-based pollution controls are not stringent enough to attain or maintain state water quality standards and for which total maximum daily loads (TMDLs) must be prepared.

On July 31, 2009, EPA partially approved and partially disapproved Arizona's 2006-2008 submittal. Specifically, EPA approved Arizona's listing of 54 waters, associated pollutants, and associated priority rankings. EPA disapproved Arizona's decisions not to list 23 water quality limited segments and associated pollutants, and additional pollutants for 5 water bodies already listed by the State. EPA identified these additional water bodies and pollutants along with priority rankings for inclusion on the 2006-2008 section 303(d) list.

EPA is providing the public the opportunity to review its decisions to add waters and pollutants to Arizona 2006-2008 section 303(d) list, as required by EPA's Public Participation regulations. EPA will consider public comments in reaching its final decisions

on the additional water bodies and pollutants identified for inclusion on Arizona's final lists.

DATES: Comments must be submitted to EPA on or before September 21, 2009.

ADDRESSES: Comments on the proposed decisions should be sent to Susan Keydel, Water Division (WTR-2), U.S. Environmental Protection Agency Region IX, 75 Hawthorne Street, San Francisco, CA 94105, telephone (415) 972-3106, facsimile (415) 947-3537, e-mail keydel.susan@epa.gov. Oral comments will not be considered. Copies of the proposed decisions concerning Arizona which explain the rationale for EPA's decisions can be obtained at EPA Region 9's Web site at <http://www.epa.gov/region9/water/tmdl/303d.html> or by writing or calling Ms. Keydel at the above address. Underlying documentation comprising the record for these decisions is available for public inspection at the above address.

FOR FURTHER INFORMATION CONTACT:

Susan Keydel at (415) 972-3106 or keydel.susan@epa.gov.

SUPPLEMENTARY INFORMATION: Section 303(d) of the Clean Water Act (CWA) requires that each state identify those waters for which existing technology-based pollution controls are not stringent enough to attain or maintain state water quality standards. For those waters, states are required to establish TMDLs according to a priority ranking.

EPA's Water Quality Planning and Management regulations include requirements related to the implementation of section 303(d) of the CWA [40 CFR 130.7]. The regulations require states to identify water quality limited waters still requiring TMDLs every two years. The lists of waters still needing TMDLs must also include priority rankings and must identify the waters targeted for TMDL development during the next two years [40 CFR 130.7].

Consistent with EPA's regulations, Arizona submitted to EPA its listing decisions under section 303(d)(2), received on December 17, 2008. On July 31, 2009, EPA approved Arizona's listing of 54 waters and associated priority rankings. EPA disapproved Arizona's decisions not to list 23 water quality limited segments and associated pollutants, and additional pollutants for 5 water bodies already listed by the State. EPA identified these additional waters and pollutants along with priority rankings for inclusion on the 2006-2008 section 303(d) list. EPA solicits public comment on its identification of additional waters and associated pollutants, and additional

pollutants for waters already listed by the State, for inclusion on Arizona's 2006-2008 Section 303(d) list.

Dated: August 3, 2009.

Nancy Woo,

Associate Director, Water Division, Region IX.

[FR Doc. E9-20045 Filed 8-19-09; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

[FRL-8942-4; Docket ID No. EPA-HQ-ORD-2009-0229]

Draft Toxicological Review of Ethyl Tertiary Butyl Ether: In Support of the Summary Information in the Integrated Risk Information System (IRIS)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of public comment period.

SUMMARY: EPA is announcing a public comment period for the external review draft document titled, "Toxicological Review of Ethyl Tertiary Butyl Ether: In Support of Summary Information on the Integrated Risk Information System (IRIS)."

EPA intends to consider comments and recommendations from the public and the expert panel meeting, which will be scheduled at a later date and announced in the **Federal Register**, when EPA finalizes the draft document. The public comment period will provide opportunities for all interested parties to comment on the document. EPA intends to forward public comments submitted in accordance with this notice to the external peer-review panel prior to the peer-review meeting for their consideration. When finalizing the draft document, EPA intends to consider any public comments that EPA receives in accordance with this notice.

EPA is releasing this draft document solely for the purpose of pre-dissemination public review under applicable information quality guidelines. This document has not been formally disseminated by EPA. It does not represent and should not be construed to represent any Agency policy or determination.

The draft document and EPA's peer-review charge are available via the Internet on NCEA's home page under the Recent Additions and the Data and Publications menus at <http://www.epa.gov/ncea>.

DATES: The 60-day public comment period begins August 20, 2009, and ends October 19, 2009. Technical comments should be in writing and must be

received by EPA by October 19, 2009. EPA intends to submit comments from the public received by this date for consideration by the external peer review panel.

ADDRESSES: The draft "Toxicological Review of Ethyl Tertiary Butyl Ether: In Support of Summary Information on the Integrated Risk Information System (IRIS)" is available via the Internet on the National Center for Environmental Assessment (NCEA's) home page under the Recent Additions and the Data and Publications menus at <http://www.epa.gov/ncea>. A limited number of paper copies are available from NCEA's Technical Information Staff, telephone: 703-347-8561; facsimile: 703-347-8691. If you are requesting a paper copy, please provide your name, mailing address, and the document title, "Toxicological Review of Ethyl Tertiary Butyl Ether: In Support of Summary Information on the Integrated Risk Information System (IRIS)."

Comments may be submitted electronically via <http://www.regulations.gov>, by mail, by facsimile, or by hand delivery/courier. Please follow the detailed instructions as provided in the **SUPPLEMENTARY INFORMATION** section of this notice.

FOR FURTHER INFORMATION CONTACT: For information on the public comment period, contact the Office of Environmental Information Docket; telephone: 202-566-1752; facsimile: 202-566-1753; or e-mail: ORD.Docket@epa.gov.

If you have questions about the document, contact Andrew A. Rooney, IRIS Staff, National Center for Environmental Assessment, U.S. EPA, 109 T.W. Alexander Drive, B243-01, Durham, NC 27711; telephone: 919-541-1492; facsimile: 919-541-0245; or e-mail: rooney.andrew@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Summary of Information About the Integrated Risk Information System (IRIS)

IRIS is a database that contains potential adverse human health effects information that may result from chronic (or lifetime) exposure to specific chemical substances found in the environment. The database (available on the Internet at <http://www.epa.gov/iris>) contains qualitative and quantitative health effects information for more than 540 chemical substances that may be used to support the first two steps (hazard identification and dose-response evaluation) of a risk assessment process. When supported by available data, the database provides oral reference doses (RfDs) and

inhalation reference concentrations (RfCs) for chronic health effects, and oral slope factors and inhalation unit risks for carcinogenic effects. Combined with specific exposure information, government and private entities can use IRIS data to help characterize public health risks of chemical substances in a site-specific situation and thereby support risk management decisions designed to protect public health.

II. How To Submit Technical Comments to the Docket at <http://www.regulations.gov>

Submit your comments, identified by Docket ID No. EPA-HQ-ORD-2009-0229 by one of the following methods:

- <http://www.regulations.gov>: Follow the on-line instructions for submitting comments.

- *E-mail:* ORD.Docket@epa.gov.

- *Fax:* 202-566-1753.

- *Mail:* Office of Environmental Information (OEI) Docket (Mail Code: 2822T), U.S. Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460. The phone number is 202-566-1752.

- *Hand Delivery:* The OEI Docket is located in the EPA Headquarters Docket Center, EPA West Building, Room 3334, 1301 Constitution Ave., NW., Washington, DC. The EPA Docket Center's 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. Such deliveries are only accepted during the docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

If you provide comments by mail or hand delivery, please submit one unbound original with pages numbered consecutively, and three copies of the comments. For attachments, provide an index, number pages consecutively with the comments, and submit an unbound original and three copies.

Instructions: Direct your comments to Docket ID No. EPA-HQ-ORD-2008-0229. Please ensure that your comments are submitted within the specified comment period. Comments received after the closing date will be marked "late," and may only be considered if time permits. It is EPA's policy to include all comments it receives in the public docket without change and to make the comments available online at <http://www.regulations.gov>, including any personal information provided, unless a comment includes information claimed to be confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

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

Docket: All documents in the docket are listed in the <http://www.regulations.gov> index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in <http://www.regulations.gov> or in hard copy at the OEI Docket in the EPA Headquarters Docket Center.

Dated: May 26, 2009.

Rebecca Clark,

Director, National Center for Environmental Assessment.

[FR Doc. E9-20044 Filed 8-19-09; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

[FRL-8946-5]

Virginia Commonwealth Prohibition on Discharges of Vessel Sewage; Final Affirmative Determination

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of final determination.

SUMMARY: Notice is hereby given that the Regional Administrator, EPA Region III has affirmatively determined, pursuant to section 312(f) of Public Law 92–500, as amended by Public Law 95–217 and Public Law 100–4 (the Clean Water Act), that adequate facilities for the safe and sanitary removal and treatment of sewage from all vessels are reasonably available for the navigable waters of the Broad Creek, Jackson Creek and Fishing Bay Watersheds in Middlesex County, VA. Virginia will completely prohibit the discharge of sewage, whether treated or not, from any vessel in Broad Creek, Jackson Creek and Fishing Bay Watersheds.

FOR FURTHER INFORMATION CONTACT: Michael D. Hoffmann, EPA Region III, Office of State and Watershed Partnerships, 1650 Arch Street, Philadelphia, PA 19103. Telephone: (215) 814–2716. Fax: (215) 814–2301. E-mail: hoffmann.michael@epa.gov.

SUPPLEMENTARY INFORMATION: An application was made by the Virginia Secretary of Natural Resources on behalf of the Commonwealth of Virginia Department of Environmental Quality (VDEQ) to EPA Region III to approve a no discharge zone for the Broad Creek, Jackson Creek and Fishing Bay Watersheds. Upon publication of this final affirmative determination, VDEQ will completely prohibit the discharge of sewage, whether treated or not, from any vessel in Broad Creek, Jackson Creek and Fishing Bay watersheds in accordance with section 312(f)(3) of the Clean Water Act and 40 CFR 140.4(a). Notice of the Receipt of Application and Tentative Determination was published in the **Federal Register** on Thursday June 4, 2009 (74 FR 26858, June 4, 2009). Comments on the tentative determination were accepted during the 30-day comment period which closed on July 6, 2009. No comment letters were received during the 30-day comment period. The remainder of this Notice summarizes the location of the no discharge zone, the available pumpout facilities and related information.

Broad Creek, Jackson Creek and Fishing Bay Watersheds

The Broad Creek, Jackson Creek and Fishing Bay Watersheds are located in the easternmost part of Middlesex County (i.e., Deltaville), Virginia. The Broad Creek discharges north to the Rappahannock River near its confluence to the Chesapeake Bay. Jackson Creek discharges east into the mouth of the Piankatank River, and Fishing Bay discharges directly south to the Piankatank River, which discharges to

the east to the Chesapeake Bay. These watersheds, including Porpoise Cove and Moore Creek, encompass an area of land and water of approximately 3.4 square miles with nearly 18 miles of shoreline. All these water bodies are oligohaline and subject to the action of tides. The majority of the waters outside the bays are shallow with maintained channel depths of six (6) to ten (10) feet, although some of the areas may not exceed four (4) feet in depth.

Many people enjoy the Broad Creek, Jackson Creek and Fishing Bay Watersheds for a variety of activities, including boating, fishing, crabbing, water skiing, and swimming. The shoreline surrounding these three watersheds includes 1,583 housing units (824 year round), public access areas, thirty two (32) marinas, boat launch facilities, and waterside restaurants. Both recreational and commercial large and small boats, personal watercraft, canoes, kayaks, water skiers, and swimmers enjoy these rivers for their recreational benefits. The full time resident population of 1,716 people (increasing to several thousand during the summer months) use these adjacent areas for boating, fishing, and commercial shellfish cultivation and harvesting.

Broad Creek, Jackson Creek and Fishing Bay host threatened, endangered and rare species of plants and animals, including more than forty (40) water dependent species. The waters of both the Rappahannock and Piankatank Rivers and their tributaries are historically known to accommodate migrating populations of more than ten (10) anadromous fish species. Marine mammals, sea turtles, and waterfowl are also dependent on the environmental quality of these three watersheds and surrounding areas.

The waters of the Broad and Jackson Creeks have been under varying levels of shellfish condemnation for more than twenty (20) years. The 2006 Virginia Water Quality Assessment listed Broad, Jackson and Moore Creeks, Fishing Bay and Porpoise Cove as requiring total maximum daily loads' determinations (TMDLs) for dissolved oxygen, aquatic plants and bacteriological impairments from fecal coliform and enterococci bacteria. In 2005, EPA Region III and the Virginia State Water Control Board (SWCB) approved a TMDL for the shellfish harvest use impairments on Broad and Jackson Creeks and the lower Piankatank River. Establishing a No Discharge Zone is one of the Commonwealth's strategies in improving overall water quality in the lower Chesapeake Bay, and these identified reaches of the Rappahannock

and Piankatank Rivers. The small tributaries to the Rappahannock and Piankatank Rivers noted within the areas to be designated are exceptional state resources in need of greater water quality protection than the current applicable Federal standards afford due to their high utilization by recreational vessels, significant shell- and finfish resources, and direct public contact with the affected waters.

For the purposes of this application

A. The proposed Broad Creek Watershed No Discharge Zone is defined as all contiguous waters south of the line formed between the points formed by Latitude 37°33'46.3" N and Longitude –76°18'45.9" W and north to Latitude 37°33'47.4" N and Longitude –76°19'24.7" W.

B. The proposed Jackson Creek Watershed No Discharge Zone is defined as all contiguous waters west of the line formed between the points formed by Latitude 37°32'40" N and Longitude –76°19'40.6" W at Stove Point Neck and Latitude 37°32'46.8" N and Longitude –76°19'15.6" W at the western point of the entrance to the eastern prong of Jackson Creek.

C. The proposed Fishing Bay No Discharge Zone is defined as all contiguous waters north of the line formed between the points formed by Latitude 37°32'01.9" N and Longitude –76°21'43.5" W at the southernmost tip of Bland Point and Latitude 37°31'29.4" N and Longitude –76°19'53.6" W at the southernmost tip of Stove Point. This area includes all of Fishing Bay, and encompasses Moore Creek and Porpoise Cove.

The Commonwealth of Virginia Department of Health (VDH) ensures that proper sanitary facilities are present. There are eighteen (18) marinas in Broad Creek, of which are nine (9) waterfront marinas operating ten (10) sanitary pumpouts. The remaining nine Broad Creek marinas have no pumpouts but seven (7) offer sanitary restroom facilities. In Jackson Creek, five (5) marinas operate six (6) sanitary sewage pumpouts and dump station facilities. The remaining four (4) Jackson Creek marinas have no pumpouts but three (3) have sanitary restroom facilities. Within Fishing Bay, there are two (2) sewage pumpout stations and one (1) under construction in Porpoise Cove. All of these facilities also provide dump stations, restrooms, and informational signage. Costs for pumpouts can vary from no charge to less than \$15.00. Further details:

Broad Creek

Walden Brothers Marina (Deltaville, VA), on the west side of Broad Creek,

operates a dump station, a sewage holding tank and restrooms. The clearly-identified pumpout is accessible to all boaters. The marina has 63 seasonal slips, 6 transient slips and 15 dry storage areas with dump station, restrooms, fuel, potable water, electricity, solid waste containers and repair facilities. The facility operates daily 8 a.m. to 5 p.m., 12 months/year.

Bay Marine (Deltaville, VA) is adjacent to Walden Brothers. It operates a sewage pumpout, a dump station and public restrooms. This facility operates a Class II package wastewater treatment unit with a 5,000 gallon holding tank. This facility has sixty (60) seasonal slips, many of which are occupied with houseboats. Dump station, restrooms, fuel, potable water, electricity, solid waste containers are on site. Operations are 8 a.m. to 4:30 p.m. daily, 12 months/year.

Norton's Marina (Deltaville, VA) is upstream of Bay Marine. It operates an accessible, clearly posted holding tank pumpout facility, with 42 seasonal slips. Restrooms, fuel, potable water, electricity, solid waste containers and repair facilities are available. Operations are on request, 7 days/week and 12 months/year.

Timberneck Marina (Deltaville, VA) is adjacent to Norton's Marina. There are 35 seasonal slips accessible to fuel, potable water, electricity, solid waste containers and repair facilities. The posted pumpout station is at the terminus of its dock at Broad Creek. Operations are 8 a.m. to 4:30 p.m., six (6) days/week all year.

Broad Creek Marina (Deltaville, VA) has 20 seasonal slips with a posted holding tank pumpout unit, a dump station, restrooms, fuel, potable water, electricity, solid waste containers. Operations are 8 a.m. to 5 p.m., seven days/week from May through November.

Walter's Marina (Deltaville, VA), adjacent to Broad Creek Marina, is managed as a bed/breakfast serving 12 (max) vessels. It offers a dump station, restrooms, potable water, electricity, and solid waste containers. Operations are on demand.

Chesapeake Cove Marina (Deltaville, VA) is further upstream on Broad Creek with 37 seasonal slips and a dump station, restrooms, fuel, potable water, electricity, solid waste containers and repair facilities. There is a posted holding tank pumpout facility. Operations are 8 a.m. to 5 p.m., 7 days/week, April through December.

J&M Marine (Deltaville, VA) is on the south shore of Broad Creek western branch adjacent to Chesapeake Cove and Coastal Marinas. There are 50 seasonal

and 17 dry storage slips, with a boat ramp, restrooms, potable water, electricity, solid waste containers and repair facilities. Hours of operation were not listed.

Coastal Marine (Deltaville, VA) is on the south shore of the western branch of Broad Creek, adjacent to J&M and Deltaville Yachting Center. It offers 12 seasonal slips and potable water, electricity, solid waste containers and repair facilities. Hours of operation were not listed.

Deltaville Yachting Center (Deltaville, VA) is adjacent to Coastal Marine and upstream of Norview Marina with 80 seasonal slips, 4 transient slips, 190 dry storage spaces, and two (2) sewage holding tank pumpout stations, in addition to a dump station, restrooms, fuel, potable water, electricity, solid waste containers and repair facilities. Operations are 8 a.m. to 4:30 p.m. for 6 days/week, March through November/year.

Norview Marina (Deltaville, VA) is on the east shore at the mouth of Broad Creek, and adjacent to the Regatta Point Yacht Club, and across Broad Creek from Bay Marine and Walden Brothers Marina. It has 110 seasonal slips, 188 dry storage spaces, a boat ramp, a dump station, restrooms, fuel, potable water, electricity, solid waste containers and repair facilities. Operations are 8 a.m. to 6 p.m., 7 days/week, 12 months/year.

Regatta Point Marina (Deltaville, VA) is on the eastern shore near the mouth of Broad Creek. There are 80 seasonal slips and a dump station, restrooms, fuel, potable water, electricity, solid waste containers and repair facilities. Operations are May 15 through September 15 yearly, 7 days/week.

Stingray Point Marina (Deltaville, VA) is on the eastern branch near the mouth of Broad Creek and adjacent to Regatta Point Yacht Club, and across from Bay Marine and Walden Brothers Marina. There are 178 seasonal slips with a dump station, restrooms, fuel, potable water, electricity, solid waste containers and repair facilities. Operations are 8 a.m.-4:30 p.m., 7 days/week, March through November/year.

In addition, there are at least four (4) additional facilities on the Broad Creek in the Deltaville, VA area with nominal amenities for boaters and water recreation craft.

Jackson Creek

Harbour House (Deltaville, VA) is a private marina at the mouth of Mill Creek meeting Jackson Creek offering 22 seasonal slips, with a ramp, electricity, solid waste containers, restrooms and sewage holding tank pumpout facilities.

Operations are 24 hours/day, 7 days/week, 12 months/year.

Jackson Creek Harbor Condominium (Deltaville, VA) is a private marina with 36 seasonal slips and electricity, potable water, and restroom facilities. No times were listed.

Deltaville Marina (Deltaville, VA) has 79 seasonal slips, 10 transient slips, two sewage holding tank pumpout facilities in addition to a dump station, restrooms, fuel, potable water, electricity, solid waste containers and repair facilities. Operations are 8 a.m.-6 p.m., for March through December (2 pumpouts available).

Powell's Marina (Deltaville, VA) has 43 seasonal slips with a dump station, restrooms, fuel, potable water, electricity, solid waste containers and sewage holding tank pumpout facilities. Operations are 8 a.m.-5 p.m., 7 days/week, 12 months/year.

Fitzgerald Boat Basin (Deltaville, VA) has 22 seasonal slips, with a dump station, restrooms, potable water, electricity, solid waste containers and sewage holding tank pumpout facilities. Operations are 7 a.m.-7 p.m., 7 days/week, April through November.

Little Snug Harbor (Deltaville, VA) has 27 seasonal slips with electricity, potable water and restroom facilities. Operation times were not listed.

Fishing Bay Yacht Club (Deltaville, VA) has 80 seasonal slips, a boat ramp, a dump station, restrooms, potable water, electricity, solid waste containers and sewage holding tank facilities. Operations are at no charge, 24 hours/day, 7 days/week, 12 months/year.

There are at least two other mooring areas with limited amenities on Jackson Creek accessible to boaters.

Fishing Bay

Ruark's Marina (Deltaville, VA) is adjacent to Fishing Bay Trace and Fishing Bay Harbor which lie just to the south. The marina operates a dump station, and is contracted to provide a publicly accessible and posted pumpout unit at the terminus of their "A" dock. On site at Ruark's are 72 seasonal slips with potable water, electricity, solid waste containers and restroom facilities. The site is under construction; no hours are yet listed.

Fishing Bay Trace (Deltaville, VA) is a private facility which has twelve (12) slips but no dump station, solid waste or pumpout facilities. No times listed.

Fishing Bay Harbor Marina (Deltaville, VA) is on the western shore of Fishing Bay and adjacent to Fishing Bay Trace and the Chesapeake Marine Railway. There are 106 slips with fuel, potable water, electricity, solid waste containers, a dump station, a sanitary

pumpout and restroom facilities. Operations are 8 a.m. to 5 p.m., 7 days/week from April through December.

Porpoise Cove

Porpoise Cove Marina (Deltaville, VA) is located at the southern end of Porpoise Cove on the north shore of the Piankatank River. There are 21 slips with potable water, electricity, solid waste containers, a dump station, and restroom facilities. The marina is under contract with the VDH Marina program to build a new pumpout station in 2009. No times listed; the facility is under construction.

The Commonwealth of Virginia Sanitary Regulations for Marinas and Boat Moorings specifies requirements for facility design and operation. Routine health department inspections and performance tests are performed to ensure that facilities are available and functioning properly. The Virginia State Water Control Law Section 62.1-44.33 addresses vessel discharges and authorizes the State Water Control Board to adopt regulations controlling discharges from boats, which are listed and defined in 9 VAC 25-71-70, which also addresses, defines and designates No Discharge Zones (9VAC 25-71-60).

Broken pumpout stations can be reported to the Virginia Department of Health by calling 1-800-ASK-FISH. These regulations also address treatment of collected vessel sewage from pumpouts and dump stations. In compliance with these regulations, all wastes from marinas within the Broad and Jackson Creeks and Fishing Bay are collected in and transported by haulers who deliver them to municipal waste treatment facilities or private facilities permitted under the Commonwealth of Virginia Pollutant Discharge Elimination System for final treatment and disposal.

According to the Commonwealth of Virginia's application there are approximately 631 vessels operating in the Deltaville, VA area (551 registered and 80 documented) on any given day based on boater registrations and observations. Transient boat population was not included in the VDH or VDEQ field reconnaissance. Based on this information, it is assumed that most transient boats are brought in by trailer. Most of these boats would not be of a size expected to have a holding tank. Transient boat counts have been estimated based on boat information given by the operators of the marinas in the Broad and Jackson Creeks and Fishing Bay areas.

The estimated vessel population in all of the affected areas is based on length: 297 vessels less than 16 feet in length,

537 vessels between 16 feet and 26 feet in length, 1,239 vessels between 27 feet and 40 feet in length, and 42 vessels greater than 40 feet in length. Based on the number and size of vessels and EPA guidance for State and local officials to estimate the number of vessels with holding tanks, three (3) pumpouts and one dump station are needed for Broad Creek. Currently, there are eleven (11) pumpout facilities and nine (9) dump stations in Broad Creek. In Jackson Creek, four (4) pumpouts and one (1) dump station are required while six (6) pumpouts and three (3) dump stations exist. For Fishing Bay and the adjacent waters of Porpoise Cove and Moore Creek, two (2) pumpouts and one (1) dump station were required, while there are now two (2) pumpouts and two (2) dump stations currently available.

Using the VDH submitted calculations and information, there are sufficient numbers of pumpout facilities and dump stations at the marinas in the waters in and around the affected areas to adequately service marine sanitary needs. These facilities are easily accessible to all vessels and provide safe and sanitary wastewater removal and treatment.

EPA hereby makes a final affirmative determination that adequate facilities for the safe and sanitary removal and treatment of sewage from all vessels are reasonably available for the Broad and Jackson Creeks, the Fishing Bay and Porpoise Cove and Moore Creek areas, in and around Deltaville Virginia. The Commonwealth of Virginia has demonstrated that there is adequate and sufficient law enforcement capability of these regulations. The Commonwealth has also submitted data to document that local citizens, advocacy groups, and marina personnel are concerned about the adverse impacts from vessel sanitary discharges into the Broad and Jackson Creeks and Fishing Bay, and adjacent areas. In response to public meetings in May and June 2008, professional and public comments were all supportive of the decision to designate the affected areas as a no discharge zone. There were sufficient agency and environmental groups' comments to also support these measures.

Finding

The EPA hereby makes a final affirmative determination that adequate facilities for the safe and sanitary removal and treatment of sewage from all vessels are reasonably available for the Broad Creek, Jackson Creek and Fishing Bay Watersheds. This final determination will result in a Virginia state prohibition of any sewage discharges, whether treated or not, from

vessels in the Broad Creek, Jackson Creek and Fishing Bay Watersheds.

Dated: August 6, 2009.

William C. Early,

Acting Regional Administrator.

[FR Doc. E9-20023 Filed 8-19-09; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

[FRL-8947-1]

Gulf of Mexico Program Citizens Advisory Committee

AGENCY: Environmental Protection Agency (EPA).

ACTION: Request for Nominations to the Citizens Advisory Committee.

SUMMARY: The U.S. Environmental Protection Agency, Gulf of Mexico Program Office (Gulf Program) invites nominations from a diverse range of qualified candidates to be considered for appointment to the Citizens Advisory Committee (Committee). It is anticipated that vacancies will be filled by the end of the 2009 calendar year. Additional sources may be utilized in the solicitation of nominees.

Background: The Citizens Advisory Committee is a standing Advisory Subcommittee established by the Environmental Protection Agency (EPA) as a part of the EPA Gulf of Mexico Program under the Federal Advisory Committee Act (FACA) charter for the Policy Review Board (PRB). The function of the Citizens Advisory Committee is to provide guidance, advice, and support for the Gulf of Mexico Program. The Committee is composed of 25 members drawn from the areas of environment, business and industry, agriculture, fishing and tourism. Members of the Committee are from the Gulf Coast States of Alabama, Florida, Louisiana, Mississippi, and Texas. The Committee usually meets three times annually. Members serve on the Committee in a voluntary capacity. However, EPA provides reimbursement for travel expenses associated with attending official FACA meetings.

The Gulf Program is seeking nominations from all sectors, including academia, industry, non-governmental organizations, and State, local and tribal governments to represent Alabama in the areas of agriculture and fisheries; Florida in the areas of fisheries and business/industry; Louisiana in the areas of agriculture and fisheries; and Mississippi in the areas of agriculture, fisheries, and tourism. Nominees will be considered according to the mandates of

FACA, which requires committees to maintain diversity across a broad range of constituencies, sectors, and groups.

The following criteria will be used to evaluate nominees:

- Possess a strong interest in furthering and achieving the goals and objectives of the Gulf Program.
- Willingness to assume responsibility to communicate the Gulf Program's policies/priorities with persons of their respective area.
- Serve as an advocate and voice for their respective area and report on issues of concern to the Gulf Program.
- Excellent interpersonal, oral and written communication skills.
- Extensive professional knowledge of the Gulf of Mexico, environmental policies, practices and technologies that are essential to preserving the Gulf.

Nominations must include a resume and a short biography describing the professional and educational qualifications of the nominee, as well as the nominee's current business address, e-mail addresses, and daytime telephone number. Interested candidates may self-nominate.

ADDRESSES: Submit nominations to: Gloria Car, Designated Federal Officer, Gulf of Mexico Program, Mail Code EPA/GMP, Bldg. 1100, Rm. 232, Stennis Space Center, MS 39529-6000. You may also e-mail nominations to car.gloria@epa.gov.

FOR FURTHER INFORMATION CONTACT: Gloria D. Car, Designated Federal Officer, Gulf of Mexico Program Office, Mail Code EPA/GMPO, Bldg. 1100, Rm. 232, Stennis Space Center, MS 39529-6000 at (228) 688-2421.

Dated: August 13, 2009.

Gloria D. Car,

Designated Federal Officer.

[FR Doc. E9-20037 Filed 8-19-09; 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 September 4, 2009.

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

1. *Charles S. Penick, Mary M. Penick, and the Charles S. Penick Mary M. Penick Revocable Trust, with Charles and Mary Penick as Trustees*, both of Morrilton, Arkansas; acting in concert to retain voting shares of Petit Jean Bancshares, Inc., and thereby indirectly retain voting shares of Petit Jean State Bank, both of Morrilton, Arkansas.

B. Federal Reserve Bank of Chicago (Colette A. Fried, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690-1414:

1. *Laura G. Gard Revocable Living Trust, Laura G. Gard, Trustee*, Marshall, Illinois; to acquire additional voting shares of Herky Hawk Financial Corp., Monticello, Iowa, and thereby indirectly acquire additional voting shares of Citizens State Bank, Monticello, Iowa, and New Vienna Savings Bank, New Vienna, Iowa.

Board of Governors of the Federal Reserve System, August 17, 2009.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. E9-19993 Filed 8-19-09; 8:45 am]

BILLING CODE 6210-01-S

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices, Acquisition of Shares of Bank or Bank Holding Companies; Correction

This notice corrects a notice (FR Doc. E9-18639 published on page 39076 of the issue for Wednesday, August 5, 2009).

Under the Federal Reserve Bank of San Francisco heading, the entry for Mitsubishi UFJ Financial Group, Inc., The Bank of Tokyo-Mitsubishi UFJ, Ltd., both of Tokyo, Japan, and UnionBanCal Corporation, San Francisco, California, is revised to read as follows:

A. Federal Reserve Bank of San Francisco (Kenneth Binning, Vice President, Applications and Enforcement) 101 Market Street, San Francisco, California 94105-1579:

1. *Mitsubishi UFJ Financial Group, Inc., The Bank of Tokyo-Mitsubishi UFJ, Ltd.*, both of Tokyo, Japan, and UnionBanCal Corporation, San Francisco, California; to acquire Texas

First Bank-Winnie, Winnie Texas, and simultaneously merge it with and into Union Bank, National Association, San Francisco, California.

Comments on this application must be received by August 28, 2009.

Board of Governors of the Federal Reserve System, August 17, 2009.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. E9-19992 Filed 8-19-09; 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 September 14, 2009.

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

1. *Farmers and Merchants Bancorp, Inc.*, Hannibal, Missouri; to become a bank holding company through the conversion of its thrift subsidiary, F&M

Bank and Trust Company, Hannibal, Missouri, into a state nonmember bank.

B. Federal Reserve Bank of San Francisco

(Kenneth Binning, Vice President, Applications and Enforcement) 101 Market Street, San Francisco, California 94105-1579;

SP Acquisition Holdings, Inc., New York, New York; to become a bank holding company by acquiring 100 percent of the voting shares of Frontier Financial Corporation, and thereby indirectly acquire voting shares of Frontier Bank, both of Everett, Washington.

Board of Governors of the Federal Reserve System, August 17, 2009.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. E9-19991 Filed 8-19-09; 8:45 am]

BILLING CODE 6210-01-S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

[Document Identifier: OS-0990-New]

Agency Emergency Information Collection Clearance Request for Public Comment

AGENCY: Office of the Secretary, HHS.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Office of the Secretary (OS), Department of Health and Human Services, is publishing the following summary of a proposed information collection request for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden. To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, e-mail your request, including your address, phone number, OMB number,

and OS document identifier, to *Sherette.funncoleman@hhs.gov*, or call the Reports Clearance Office on (202) 690-6162. Written comments and recommendations for the proposed information collections must be directed to the OS Paperwork Clearance Officer at the above e-mail address within 7-days.

Proposed Project: HAvBED Assessment for 2009-H1N1 Influenza Serious Illness, OMB No. 0990-NEW-HHS Office of the Assistant Secretary for Preparedness and Response (ASPR), Office of Preparedness and Emergency Operations (OPEO).

Abstract: The Office of the Secretary (OS) is requesting emergency action for this clearance by the Office of Management and Budget no later than August 28, 2009. ASPR is requesting emergency processing procedures for this application because this information is needed immediately to help reduce morbidity and mortality from 2009-H1N1 by providing decision makers with timely, usable information regarding the status of the health care system. The urgent timeline is supported by the fact that Americans are already becoming ill and even dying due to 2009-H1N1 infection, and that numerous countries in the Southern Hemisphere (who are currently experiencing their traditional influenza season) have had a large surge in seriously ill patients. The Southern Hemisphere experience is leading to valid anticipation of many additional seriously ill patients in the US over the upcoming months. During the spring and summer novel H1N1 response in the US, we did not have an adequate understanding of disease severity, health care system resource needs such as ventilators and ICU beds, and did not learn from our collective experiences caring for these seriously ill patients. If we do not develop a national data collection mechanism for seriously ill people infected with H1N1 then we cannot adequately support hospitals to care for these patients.

Pursuant to section 2811 of the PHS Act, the ASPR serves as the principal advisor to the Secretary on all matters related to Federal public health and medical preparedness and response for public health emergencies. In addition to other tasks, the ASPR coordinates with State, local, and tribal public

health officials and healthcare systems to ensure effective integration of Federal public health and medical assets during an emergency. ASPR's National Hospital Preparedness Program (HPP) awards cooperative agreements to each of the 50 states, the Pacific Islands, and US territories (for a total of 62 awardees) to improve surge capacity and enhance community and hospital preparedness for public health emergencies. These 62 awardees are responsible for enhancing the preparedness of the nation's nearly 6000 hospitals. These awards are authorized under section 391C-2 of the Public Health Service (PHS) Act. For this data collection the 62 HPP awardees will gather data from the 6000 hospitals using a Web-based interface known as HAvBED. The data gathered from the hospitals will be reported to the HHS Secretary's Operations Center weekly for 6 months. If the seriousness of the stress on the hospitals increases daily reporting may be requested.

Depending on the nature of the existing systems at the hospitals, the data may be obtained manually or readily available electronically through existing systems. States would have their own procedures for training staff on how to use their existing systems, so there would not be an additional training burden for learning those systems. For manual data collection using the HAvBED system personnel would need to be trained. The system is easy to use and intuitive. The user guide provides information to help people quickly understand how to use the system. See Attachment 2 for a copy of the user guide. Based on the experience of the system administrator in working with users, training time to learn the HAvBED data entry procedures is no more than one hour. On average it takes 40 minutes of explanation and 20 minutes of hands on practice with the training site.

The actual data collection time for the hospitals is approximately 1 hour and the states will spend approximately 3 hours compiling the information from all of the hospitals in their State/territory. For automated systems the time would be less. These estimates are based on a pilot test of the system. This cost model assumes daily data collection over 3 months and weekly for 3 months.

6 MONTHS ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondent	Number of respondents	Number of responses/respondent	Average burden hours per response	Total burden hours
Hospital staff (Training)	6000	1	1	6000

6 MONTHS ESTIMATED ANNUALIZED BURDEN HOURS—Continued

Type of respondent	Number of respondents	Number of responses/ respondent	Average burden hours per response	Total burden hours
Hospital staff (data collection)	6000	96	1	576,000
State/Territory Preparedness staff (training)	62	1	1	62
State/Territory Preparedness staff (data collection)	62	288	3	53,568
Total		386		635,630

The burden was determined by asking the States that participated in a pilot study to report who collected the data and how long it took them to gather the information.

Terry Nicolosi,
Paperwork Reduction Act Reports Clearance Officer, Office of the Secretary.
 [FR Doc. E9-20073 Filed 8-19-09; 8:45 am]
BILLING CODE 4150-37-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA-2009-N-0030]

Agency Information Collection Activities; Announcement of Office of Management and Budget Approval; Investigational New Drug Regulations

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a collection of information entitled “Investigational New Drug Regulations” has been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995.

FOR FURTHER INFORMATION CONTACT: Elizabeth Berbakos, Office of Information Management (HFA-710), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, *Elizabeth.Berbakos@fda.hhs.gov*, 301-796-3792.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of May 8, 2009 (74 FR 21690), the agency announced that the proposed information collection had been submitted to OMB for review and clearance under 44 U.S.C. 3507. 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. OMB has now approved the information collection and has assigned OMB control number 0910-0014. The approval expires on August 31, 2011. A copy of the supporting statement for this

information collection is available on the Internet at *http://www.reginfo.gov/public/do/PRAMain*.

Dated: August 13, 2009.
Jeffrey Shuren,
Associate Commissioner for Policy and Planning.
 [FR Doc. E9-19972 Filed 8-19-09; 8:45 am]
BILLING CODE 4160-01-S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30Day-09-09AA]

Agency Forms Undergoing Paperwork Reduction Act Review

The Centers for Disease Control and Prevention (CDC) publishes a list of information collection requests under review by the Office of Management and Budget (OMB) in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). To request a copy of these requests, call the CDC Reports Clearance Officer at (404) 639-5960 or send an e-mail to *omb@cdc.gov*. Send written comments to CDC Desk Officer, Office of Management and Budget, Washington, DC or by fax to (202) 395-5806. Written comments should be received within 30 days of this notice.

Proposed Project

BioSense—Recruitment of Data Sources—Existing Data Collection Without an OMB Number—National Center for Public Health Informatics (NCPHI), *Coordinating Center for Health Information and Service (CCHIS)*, Centers for Disease Control and Prevention (CDC).

Background and Brief Description

Congress passed the Public Health Security and Bioterrorism Preparedness and Response Act of 2002, which requires specific activities related to bioterrorism preparedness and response. This congressional mandate outlines the need for improving the overall public’s health through electronic surveillance.

The Department of Health and Human Services outlined strategies aimed at achieving this goal via the Public Health IT Initiative thereby creating the BioSense program.

BioSense is a national, human health surveillance system designed to improve the nation’s capabilities for disease detection, monitoring, and real-time health situational awareness. This work is enhanced by providing public health real-time access to existing data from healthcare organizations, state syndromic surveillance systems, national laboratories, and others for just in time public health decisionmaking; this information is made available to users in the BioSense Application. The application provides data, charts, graphs, and maps through a secure Web-based interface which can be accessed by CDC and authorized users from state and local public health departments and healthcare organizations.

In order to meet the congressional mandate, the BioSense program must have access to electronic health data. Recruitment of data sources includes collecting information on the types of data available, the types of computer systems used, and the approximate record volume. This information is used by BioSense personnel and contractors to determine technical requirements for linking a data source into the BioSense program. To collect this information, a series of questionnaires in an Excel spreadsheet have been designed. Information collection will take place during and after on-site visits by BioSense personnel and contractors. We estimate that such information will be collected from 20 new entities (each representing many facilities or clinics) each year.

Since the publication of the 60-day **Federal Register** Notice, the information collection instrument for the provision of access to the BioSense Application has been included in this information collection request. Access to the BioSense Application is obtained using an automated data collection form. This form is completed on the Internet via the CDC Secure Data Network (SDN) in which a prospective user identifies what

activities are requested. Potential users must request and receive permission to view the BioSense Application. Federal rules mandate that this permission be

renewed each year. We estimate about 800 users per year will need to request new or continued access to the BioSense Application.

There is no cost to respondents other than their time. The total estimated annual burden hours are 147 hours.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Number of respondents	Number of responses per respondent	Average burden per response (in hours)
Recruitment of Prospective Data Source Entities			
Federal, State & Local Governments, Private Sector	20	1	4
Access to BioSense Application			
Federal, State & Local Governments, Private Sector	800	1	5/60

Dated: August 14, 2009.
Maryam I. Daneshvar,
Acting Reports Clearance Officer, Centers for Disease Control and Prevention.
 [FR Doc. E9-20000 Filed 8-19-09; 8:45 am]
BILLING CODE 4163-18-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration
 [Docket No. FDA-2008-N-0077]

Agency Information Collection Activities; Announcement of Office of Management and Budget Approval; MedWatch: Food and Drug Administration Medical Products Reporting Program

AGENCY: Food and Drug Administration, HHS.
ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a collection of information entitled "MedWatch: Food and Drug Administration Medical Products Reporting Program" has been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995.

FOR FURTHER INFORMATION CONTACT: Elizabeth Berbakos, Office of Information Management (HFA-710), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, *Elizabeth.Berbakos@fda.hhs.gov*, 301-796-3792.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of September 24, 2008 (73 FR 55111), the agency announced that the proposed information collection had been submitted to OMB for review and clearance under 44 U.S.C. 3507. 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. OMB has now approved the information collection and has assigned OMB control number 0910-0291. The approval expires on December 31, 2011. A copy of the supporting statement for this information collection is available on the Internet at *http://www.reginfo.gov/public/do/PRAMain*.

Dated: August 13, 2009.
Jeffrey Shuren,
Associate Commissioner for Policy and Planning.
 [FR Doc. E9-19980 Filed 8-19-09; 8:45 am]
BILLING CODE 4160-01-S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Healthcare Research and Quality

Agency Information Collection Activities; Proposed Collection; Comment Request

AGENCY: Agency for Healthcare Research and Quality, HHS.
ACTION: Notice.

SUMMARY: This notice announces the intention of the Agency for Healthcare Research and Quality (AHRQ) to request that the Office of Management and Budget (OMB) approve the proposed information collection project: "2010-2011 Medical Expenditure Panel Survey Insurance Component." In accordance with the Paperwork Reduction Act of 1995, 44 U.S.C. 3506(c)(2)(A), AHRQ invites the public to comment on this proposed information collection.

This proposed information collection was previously published in the **Federal Register** on June 16th, 2009 and allowed 60 days for public comment. No comments were received. The purpose of this notice is to allow an additional 30 days for public comment.

DATES: Comments on this notice must be received by September 21, 2009.

ADDRESSES: Written comments should be submitted to: AHRQ's OMB Desk Officer by fax at (202) 395-6974 (attention: AHRQ's desk officer) or by e-mail at *OIRA_submission@omb.eop.gov* (attention: AHRQ's desk officer).

Copies of the proposed collection plans, data collection instruments, and specific details on the estimated burden can be obtained from the AHRQ Reports Clearance Officer.

FOR FURTHER INFORMATION CONTACT: Doris Lefkowitz, AHRQ Reports Clearance Officer, (301) 427-1477, or by e-mail at *doris.lefkowitz@ahrq.hhs.gov*.

SUPPLEMENTARY INFORMATION:

Proposed Project

2010-2011 Medical Expenditure Panel Survey Insurance Component

AHRQ seeks to renew the Medical Expenditure Panel Survey Insurance Component (MEPS-IC) for calendar years 2010 and 2011. The MEPS-IC, an annual survey of the characteristics of employer-sponsored health insurance, was first conducted by AHRQ in 1997 for the calendar year 1996. The survey has since been conducted annually for calendar years 1996 through 2009, except for 2007. A change from prior year collection to calendar year collection in 2008 meant that no data were collected for the 2007 calendar year, but the change has allowed for much earlier release of the survey results for the 2008 calendar year forward. AHRQ is authorized to conduct the MEPS-IC pursuant to 42 U.S.C. 299b-2.

Employment-based health insurance is the source of coverage for over 90 million workers and their family members, and is a cornerstone of the current U.S. health care system. The MEPS-IC measures the extent, cost, and coverage of employment-based health

insurance. Statistics are produced at the National, State, and sub-State (metropolitan area) level.

The MEPS-IC is designed to provide data for Federal policymakers evaluating the effects of National and State health care reforms. It also provides descriptive data on the current employment-based health insurance system and data for modeling the differential impacts of proposed health policy initiatives. The MEPS-IC also supplies critical State and National estimates of health insurance spending for the National Health Accounts and Gross Domestic Product. Data to be collected from each employer will include a description of the organization (e.g., size, industry) and descriptions of health insurance plans available, plan enrollments, total plan costs and costs to employees. This survey will be conducted for AHRQ by the Bureau of the Census using an annual sample of employers selected from Census Bureau lists of private sector employers and governments.

The MEPS-IC is one of three components of the MEPS. The others are the Household and Medical Provider Components:

MEPS Household Component is a sample of households participating in the National Health Interview Survey in the prior calendar year. These households are interviewed 5 times over a 2½ year period for MEPS. The 5 interviews yield two years of information on use of and expenditures for health care, sources of payment for

that health care, insurance status, employment, health status and health care quality.

MEPS Medical Provider Component collects information from medical and financial records maintained by hospitals, physicians, pharmacies, health care institutions, and home health agencies named as sources of care by household respondents.

This clearance request is for the MEPS-IC only.

Method of Collection

Data collection for the MEPS-IC takes place in three phases at each sample establishment: prescreening interview, questionnaire mailout, and nonresponse follow-up. An establishment is a single location of a private sector or State and local government employer.

First, a prescreening interview is conducted by telephone. For those establishments that offer health insurance, its goal is to obtain the name and title of an appropriate person in each establishment to whom a MEPS-IC questionnaire will be mailed. For establishments which do not offer health insurance, a brief set of questions about establishment characteristics is administered at the end of the prescreening interview to close out the case. This step minimizes burden for many small establishments that do not offer health insurance.

The next phase, questionnaire mailout, makes use of two forms—one requests establishment-level information (e.g., total number of employees) and the other requests plan-

level information (e.g., the plan premium for single coverage) for each plan (up to four) offered by the establishment.

In the final phase, establishments which do not respond to the initial MEPS-IC mail questionnaire are mailed a nonresponse follow-up package. Those establishments which fail to respond to the second mailing are contacted for a telephone follow-up using computer-assisted interviewing.

Data collection for the largest private sector and government units, which have high survey response burdens, may differ somewhat from the above pattern.

Estimated Annual Respondent Burden

Exhibit I shows the estimated annualized burden hours for the respondents' time to provide the requested data. The Prescreener questionnaire will be completed by 32,006 respondents and takes about 5½ minutes to complete. The Establishment questionnaire will be completed by 24,965 respondents and takes about 23 minutes to complete. The Plan questionnaire will be completed by 21,437 respondents and will require an average of 2.1 responses per respondent. Each Plan questionnaire takes about 11 minutes to complete. The total annualized burden hours are estimated to be 20,471 hours.

Exhibit 2 shows the estimated annualized cost burden associated with the respondents' time to participate in this data collection. The annualized cost burden is estimated to be \$546,576.

EXHIBIT 1—ESTIMATED ANNUALIZED BURDEN HOURS

Form name	Number of respondents	Number of responses per response	Hours per response	Total burden hours
Prescreener Questionnaire	32,006	1	0.09	2,881
Establishment Questionnaire	24,965	1	0.38	9,487
Plan Questionnaire	21,437	2.1	0.18	8,103
Total	78,408	na	na	20,471

Note: The total number of respondents increased from previous clearances not due to any increase in sample size, but due to a

change in the way the number of respondents is reported. While now total respondents are the sum of respondents per form, previously

they were reported as the number of unique establishments completing at least one form.

EXHIBIT 2—ESTIMATED ANNUALIZED COST BURDEN

Form name	Number of respondents	Total burden hours	Average hourly wage rate*	Total cost burden
Prescreener Questionnaire	32,006	2,881	26.70	\$76,923
Establishment Questionnaire	24,965	9,487	26.70	253,303
Plan Questionnaire	21,437	8,103	26.70	216,350
Total	78,408	20,471	na	546,576

*Based upon the mean wage for Compensation, benefits, and job analysis specialists, civilian workers, National Compensation Survey: Occupational Earnings in the United States, 2007, U.S. Department of Labor, Bureau of Labor Statistics.

Estimated Annual Costs to the Federal Government

Exhibit 3 shows the estimated total and annualized cost for this two year

project. The annual cost to the Federal Government is estimated to be \$10.3 million.

EXHIBIT 3—ESTIMATED TOTAL AND ANNUALIZED COST
[\$ thousands]

Cost component	Total cost	Annualized cost
Project Development	\$3,099	\$1,550
Data Collection Activities	7,230	3,615
Data Processing and Analysis	7,230	3,615
Project Management	2,066	1,033
Overhead	1,033	517
Total	\$20,658	\$10,329

Note: Components may not sum to Total due to rounding.

Request for Comments

In accordance with the above-cited Paperwork Reduction Act legislation, comments on AHRQ's information collection are requested with regard to any of the following: (a) Whether the proposed collection of information is necessary for the proper performance of AHRQ health care research, quality improvement and information dissemination functions, including whether the information will have practical utility; (b) the accuracy of AHRQ's estimate of burden (including hours and costs) of the proposed collection(s) 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 upon the respondents, including the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and included in the Agency's subsequent request for OMB approval of the proposed information collection. All comments will become a matter of public record.

Dated: August 13, 2009.

Carolyn M. Clancy,
Director.

[FR Doc. E9-20021 Filed 8-19-09; 8:45 am]

BILLING CODE 4160-90-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Healthcare Research and Quality

Meeting of the AHRQ National Advisory Council for Healthcare Research and Quality Subcommittee on Quality Measures for Children's Healthcare in Medicaid and Children's Health Insurance Programs

AGENCY: Agency for Healthcare Research and Quality (AHRQ), HHS.

ACTION: Notice of public meeting.

SUMMARY: In accordance with section 10(a) of the Federal Advisory Committee Act, 5 U.S.C. App. 2, this notice announces a meeting of the National Advisory Council for Healthcare Research and Quality Subcommittee on Quality Measures for Children's Healthcare in Medicaid and Children's Health Insurance Programs (CHIP).

DATES: The meeting will be held on Thursday, September 17, 2009, from 8 a.m. to 5 p.m. and Friday, September 18, 2009 from 8 a.m. to 12 p.m.

ADDRESSES: Holiday Inn Capitol, 550 C Street, SW., Washington, DC 20024.

FOR FURTHER INFORMATION CONTACT: Padmini Jagadish, Public Health Analyst at the Agency for Healthcare Research and Quality, 540 Gaither Road, Rockville, Maryland 20850, (301) 427-1927. For press-related information, please contact Karen Migdail at (301) 427-1855.

If sign language interpretation or other reasonable accommodation for a disability is needed, please contact Mr. Michael Chew, Director, Office of Equal Employment Opportunity Program, Program Support Center, on (301) 443-1144, no later than August 31, 2009.

SUPPLEMENTARY INFORMATION:

I. Purpose

The National Advisory Council for Healthcare Research and Quality was established in accordance with Section 921 (now Section 931) of the Public Health Service Act, 42 U.S.C. 299c. In accordance with its statutory mandate, the Council is to advise the Secretary of the Department of Health and Human Services and the Director, Agency for Healthcare Research and Quality (AHRQ), on matters related to actions of AHRQ to enhance the quality, and improve the outcomes, of health care services; improve access to such services through scientific research; and promote improvements in clinical practice and in the organization, financing, and delivery of health care services.

The Council is composed of members of the public, appointed by the Secretary, and Federal ex-officio members.

AHRQ's National Advisory Council on Healthcare Research and Quality (NAC) has established a Subcommittee on Quality Measures for Children's Healthcare in Medicaid and Children's Health Insurance Programs (CHIP). The Subcommittee was created to provide advice to the NAC for consideration and transmission to AHRQ as AHRQ undertakes responsibilities in the identification of an initial core quality measure set for use by Medicaid and CHIP programs for children's healthcare. A roster of the Subcommittee members is available at <http://www.ahrq.gov/chip/chipraact.htm>. The first meeting of the subcommittee took place on July 22 and 23, 2009. The September meeting is the second working meeting that will be held as a part of this effort.

The identification of an initial core measure set for public comment is required under Public Law 111-3, the Child Health Insurance Program

Reauthorization Act (CHIPRA). The initial core measure set is required to be posted for public comment by January 1, 2010. CHIPRA reauthorized the Child Health Insurance Program (CHIP) originally established in 1997, and in Title IV of the law, added a number of new provisions designed to improve health care quality and outcomes for children. AHRQ is working closely with the Centers for Medicare and Medicaid Services (CMS) in implementing these provisions. For more information about AHRQ's role in carrying out the quality provisions of CHIPRA, see <http://www.ahrq.gov/chip/chipraact.htm>.

II. Agenda

On Thursday, September 17, 2009, the Subcommittee meeting will convene at 8 a.m., with the call to order by the Subcommittee Co-Chairs. The meeting will review results of the second stage of the Delphi Process of scoring measures for validity, feasibility, and importance, and proceed to select an initial core set of children's healthcare quality measures to recommend to the AHRQ National Advisory Committee (NAC). This process was started in the first subcommittee meeting, held July 22–23, 2009.

A more specific proposed agenda will be available before the meeting from Padmini Jagadish, Agency for Healthcare Research and Quality, 540 Gaither Road, Rockville, Maryland 20850, (301) 427–1927, e-mail address Padmini.Jagadish@ahrq.hhs.gov. The final agenda, including the time for public comment during the meeting, will be available on the AHRQ Web site at <http://www.ahrq.gov/chip/chipraact.htm> no later than September 10, 2009. This AHRQ Web site links to an email address that can be used to submit comments on CHIPRA quality measure development as the process of identifying the initial core measure set proceeds. Subcommittee meeting minutes will be available within 21 business days after the meeting.

Dated: August 13, 2009.

Carolyn M. Clancy,

Director.

[FR Doc. E9–20020 Filed 8–19–09; 8:45 am]

BILLING CODE 4160–90–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2009–N–0374]

Educating the Public About Removal of Essential-Use Designation for Epinephrine; Public Workshop; Request for Comments

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of public workshop; request for comments.

SUMMARY: The Food and Drug Administration (FDA) is announcing a public workshop entitled “Educating the Public About Removal of Essential-Use Designation for Epinephrine.” The currently approved over-the-counter (OTC) epinephrine metered-dose inhalers (MDIs) contain chlorofluorocarbons (CFCs) and cannot be marketed after December 31, 2011. This 1-day public workshop is intended to seek input from key stakeholders in the asthma community, the pharmaceutical industry, experts in health care communication, and the public on strategies to educate consumers about the decision to remove epinephrine MDIs from the market and transition consumers to therapeutic alternatives that do not contain CFCs or other ozone-depleting substances (ODSs). The agency encourages individuals, patient advocates, industry, consumer groups, health care professionals, researchers, and other interested persons to attend this public workshop.

DATES: The public workshop will be held on September 25, 2009, from 8:30 a.m. to 3 p.m. However, depending on public participation, the meeting may be extended or may end early. See section III of this document for information on how to register for the workshop. Written or electronic comments must be submitted by November 24, 2009.

ADDRESSES: The public workshop will be held at FDA's, Center for Drug Evaluation and Research Advisory Committee Conference Room, 5630 Fishers Lane, rm. 1066, Rockville, MD 20852.

Submit written or electronic requests to make a presentation to Faith Dugan (see **FOR FURTHER INFORMATION CONTACT**). Submit written comments to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Submit electronic comments to <http://www.regulations.gov>. All comments should be identified with the

docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT:

Faith Dugan, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, rm. 6182, Silver Spring, MD 20993–0002, 301–796–3446, FAX: 301–847–8752, e-mail: Faith.Dugan@fda.hhs.gov.

SUPPLEMENTARY INFORMATION:

I. Background

Under the Montreal Protocol on Substances that Deplete the Ozone Layer (Montreal Protocol) and the Clean Air Act,¹ FDA, in consultation with the Environmental Protection Agency, is required to determine whether an FDA-regulated product that releases an ODS is an essential use of the ODS. Products containing an ODS, such as CFCs, that are not designated as essential uses cannot be sold or distributed in the United States. In the **Federal Register** of November 19, 2008 (73 FR 69532) (the final rule), we amended our regulation on the use of ODSs in self-pressurized containers to remove the essential-use designation for MDIs containing epinephrine. Epinephrine MDIs containing an ODS cannot be marketed after December 31, 2011. You may find copies of the final rule on the Internet at <http://www.regulations.gov>.

Epinephrine is a short-acting adrenergic bronchodilator used in the treatment of asthma. A new drug application (NDA) for OTC epinephrine MDIs was approved in 1956. Epinephrine was designated as an essential use in 1978 (43 FR 11301, March 17, 1978). Epinephrine MDIs are marketed OTC as PRIMATENE MIST and as generic brands for certain retail pharmacies. Epinephrine MDIs are the only MDIs for treatment of asthma (or any other disease) that are approved for OTC use. Consumers do not need a prescription from a health care provider to purchase OTC epinephrine MDIs.

In removing the essential-use designation for epinephrine, we applied the criteria for removing an essential-use designation in § 2.125(g)(2) (21 CFR 2.125(g)(2)). Under § 2.125(g)(2), an essential-use designation can be removed even though the active moiety is not available in a non-CFC product if it no longer meets the criteria specified in § 2.125(f) for adding a new essential use. The criteria in § 2.125(f)(1) are: “(i) Substantial technical barriers exist to formulating the product without ODSs;

¹ Montreal Protocol on Substances that Deplete the Ozone Layer, September 16, 1987, 26 I.L.M. 1541 (1987); 1990 Amendments to the Clean Air Act, Public Law No. 101–549 (November 15, 1990).

(ii) The product will provide an unavailable important public health benefit; and (iii) Use of the product does not release cumulatively significant amounts of ODSs into the atmosphere or the release is warranted in view of the unavailable important public health benefit.”

In a proposed rule published on September 20, 2007 (72 FR 53711), we proposed an effective date for removal of the essential-use designation for OTC epinephrine MDIs of December 31, 2010, and we solicited comments on this proposed effective date. We received a number of comments on the effective date and on the related issue of ensuring adequate time to transition consumers who use OTC epinephrine MDIs to non-CFC alternatives. After considering the comments, we were persuaded that December 31, 2011, rather than December 31, 2010, as proposed, is a more appropriate effective date for this rule. The December 31, 2011, date provides additional time to disseminate information about the transition to OTC epinephrine MDI users and allows consumers more time to transition to appropriate non-CFC alternatives. Although at least one manufacturer has stated its intent to develop an OTC epinephrine MDI without CFCs,² there is no assurance that the product will be available by December 31, 2011. Thus, we assume that OTC epinephrine MDI users will need to transition to therapeutic alternatives that contain a different active moiety, such as prescription albuterol MDIs.

II. Scope of Public Workshop

FDA is holding this public workshop to obtain information about usage of OTC epinephrine MDIs and to discuss the best methods for disseminating information to consumers who use these MDIs about the need to transition to alternative treatments for asthma. At the public workshop, FDA will provide relevant background information, including a brief summary of the Montreal Protocol, the Clean Air Act, and the epinephrine final rule. FDA also will present an update on the current transition from CFC MDIs to non-CFC alternatives and FDA's related outreach efforts. Presentations by patient outreach experts and other stakeholders will provide a framework for discussion

about OTC use of epinephrine and how best to educate epinephrine users about the phase-out and therapeutic alternatives. The input from the public workshop will help FDA in developing further outreach and education campaigns to assist consumers in the transition away from OTC epinephrine MDIs.

A. Objectives of the Workshop

The workshop objectives are as follows:

1. Provide an overview of the regulatory framework for the transition and FDA's current outreach activities.
2. Discuss what is known about current OTC epinephrine MDI usage and the demand for OTC epinephrine MDIs.
3. Discuss the therapeutic alternatives to OTC epinephrine MDIs.
4. Discuss how best to educate consumers who use OTC epinephrine MDIs about the phase-out and therapeutic alternatives.

B. Issues for Comment

FDA is interested in obtaining public comment on the following issues relating to the transition from OTC epinephrine MDIs to therapeutic alternatives that do not contain ozone-depleting substances:

1. What is known about current OTC epinephrine MDI usage? Who uses them and under what circumstances?
2. What sales data are available and what do they indicate about use of OTC epinephrine MDIs?
3. What treatment alternatives are available for consumers who must switch from OTC epinephrine MDIs?
4. What are effective outreach strategies for informing consumers who use OTC epinephrine MDIs about the transition?
5. What other education efforts should FDA undertake to effect an orderly transition?

III. Registration

Interested parties are encouraged to register early because space is limited and seating will be on a first-come, first-served basis. There is no fee to attend the public workshop. If you would like to make an oral presentation during the open public session of the workshop, you must register and provide an abstract of your presentation by close of business on September 11, 2009. To register to attend or speak at the public workshop, submit your name, title, business affiliation (if applicable), address, telephone and fax numbers, and e-mail address to Faith Dugan (see **FOR FURTHER INFORMATION CONTACT**). FDA has included questions for

comment in section II of this document. You may identify by number each question you wish to address in your presentation and the approximate time requested for your presentation. FDA will do its best to accommodate requests to speak. Individuals and organizations with common interests are urged to consolidate or coordinate their presentations and to request time for a joint presentation. FDA will determine the amount of time allotted to each presenter and the approximate time that each oral presentation is scheduled to begin. Persons registered to make an oral presentation should check in at the registration table at 8 a.m.

If you need special accommodations due to a disability, please contact Faith Dugan (see **FOR FURTHER INFORMATION CONTACT**) at least 7 days in advance.

IV. Comments

Regardless of attendance at the public workshop, interested persons may submit written or electronic comments to the Division of Dockets Management (see **ADDRESSES**). Submit a single copy of electronic comments or two paper copies of any mailed comments, except that individuals may submit one paper copy. Comments should be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

V. Transcripts

Transcripts of the public workshop may be requested in writing from the Freedom of Information Office (HFI-35), Food and Drug Administration, 5600 Fishers Lane, rm. 6-30, Rockville, MD 20857, approximately 45 working days after the public workshop at a cost of 10 cents per page. A transcript of the public workshop will be available on the Internet at <http://www.regulations.gov>.

Dated: August 13, 2009.

Jeffrey Shuren,

Associate Commissioner for Policy and Planning.

[FR Doc. E9-19985 Filed 8-19-09; 8:45 am]

BILLING CODE 4160-01-S

² See Comment from Mr. Robert Sussman on behalf of Armstrong Pharmaceuticals, Inc., submitted in response to the Proposed Rule on Use of Ozone-Depleting Substances; Removal of Essential-Use Designation (Epinephrine) at 1-2 (dated November 21, 2007) (Document ID FDA-2007-N-0314-0032, available on the Internet at <http://www.regulations.gov>).

DEPARTMENT OF HOMELAND SECURITY**Transportation Security Administration****Extension of Agency Information Collection Activity Under OMB Review: Employment Standards**

AGENCY: Transportation Security Administration, DHS.

ACTION: 30-Day Renewal Notice.

SUMMARY: This notice announces that the Transportation Security Administration (TSA) has forwarded the Information Collection Request (ICR), OMB control number 1652-0006, abstracted below to the Office of Management and Budget (OMB) for review and approval of an extension of the currently approved collection under the Paperwork Reduction Act. The ICR describes the nature of the information collection and its expected burden. TSA published a **Federal Register** notice, with a 60-day comment period soliciting comments, of the following collection of information on June 15, 2009, 74 FR 28267. The collection involves airport operator maintenance of records in compliance with 49 CFR part 1542 for employees with access privileges to secure areas of the airport and aircraft operator maintenance of records in compliance with 49 CFR part 1544 for selected crew and security employees. TSA Transportation Security Inspectors (TSI) review these records to ensure that the safety and security of the public is not compromised, to include using this information to take corrective action when necessary.

DATES: Send your comments by September 21, 2009. A comment to OMB is most effective if OMB receives it within 30 days of publication.

ADDRESSES: Interested persons are invited to submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to Desk Officer, Department of Homeland Security/TSA, and sent via electronic mail to oir_submission@omb.eop.gov or faxed to (202) 395-6974.

FOR FURTHER INFORMATION CONTACT: Ginger LeMay, Office of Information Technology, TSA-11, Transportation Security Administration, 601 South 12th Street, Arlington, VA 20598-6011; telephone (571) 227-3616; e-mail ginger.lemay@dhs.gov.

SUPPLEMENTARY INFORMATION:**Comments Invited**

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid OMB control number. The ICR documentation is available at <http://www.reginfo.gov>. Therefore, in preparation for OMB review and approval of the following information collection, TSA is soliciting comments to—

(1) Evaluate whether the proposed information requirement 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;

(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 using appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Information Collection Requirement

Title: Employment Standards.

Type of Request: Extension of a currently approved collection.

OMB Control Number: 1652-0006.

Form(s): NA.

Affected Public: Airport and aircraft operators regulated under 49 CFR parts 1542 and 1544.

Abstract: Airport operators are required to maintain records of compliance with part 1542 for those employees with access privileges to secure areas of the airport. Aircraft operators are required to maintain records of compliance with part 1544 for selected crew and security employees. TSA TSIs review these records to ensure that the safety and security of the public is not compromised, to include using this information to take corrective action when necessary.

Number of Respondents: 1,321.

Estimated Annual Burden Hours: An estimated 491,009 hours annually. The burden hour estimate report in TSA's June 15, 2009 notice has been revised in light of the increase in the number of employees requiring access privileges to secure areas of the airport regulated under these parts due to a change in policy.

Issued in Arlington, Virginia, on August 17, 2009.

Ginger LeMay,

Paperwork Reduction Act Officer, Office of Information Technology.

[FR Doc. E9-20043 Filed 8-19-09; 8:45 am]

BILLING CODE 9110-05-P

DEPARTMENT OF HOMELAND SECURITY**U.S. Citizenship and Immigration Services****Agency Information Collection Activities: Form G-1054, Extension of a Currently Approved Information Collection; Comment Request**

ACTION: 30-Day Notice of Information Collection Under Review: Form G-1054, Request for Fee Waiver Denial Letter; OMB Control No. 1615-0089.

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 June 2, 2009, at 74 FR 26413 allowing for a 60-day public comment period. USCIS did not receive any comments for this information collection.

The purpose of this notice is to allow an additional 30 days for public comments. Comments are encouraged and will be accepted until September 21, 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 oir_submission@omb.eop.gov.

When submitting comments by e-mail please make sure to add OMB Control Number 1615-0089. Written comments and suggestions from the public and

affected agencies 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:* Request for Fee Waiver Denial Letter.

(3) *Agency form number, if any, and the applicable component of the Department of Homeland Security sponsoring the collection:* Form G-1054. 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 regulations at 8 CFR 103.7(c) allow U.S. Citizenship and Immigration Services (USCIS) to waive fees for benefits under the Immigration and Nationality Act (Act). This form is used to maintain consistency in the adjudication of fee waiver requests.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 16,000 responses at 1.25 hours (75 minutes) per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 20,000 annual burden hours.

If you need a copy of the proposed information collection instrument with instructions, or additional information, please visit the Web site at: <http://www.regulations.gov/search/index.jsp>.

If additional information is required contact: USCIS, Regulatory Products Division, 111 Massachusetts Avenue, Washington, DC 20529-2210, (202) 272-8377.

Dated: August 14, 2009.

Sunday Aigbe,

Chief, Regulatory Products Division, U.S. Citizenship and Immigration Services, Department of Homeland Security.

[FR Doc. E9-19918 Filed 8-19-09; 8:45 am]

BILLING CODE 9111-97-P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

Agency Information Collection Activities: Form I-243, Extension of a Currently Approved Information Collection; Comment Request

ACTION: 30-Day Notice of Information Collection Under Review; Form I-243, Application for Removal; OMB Control No. 1615-0019.

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 June 2, 2009, at 74 FR 26415, allowing for a 60-day public comment period. USCIS did not receive any comments for this information collection.

The purpose of this notice is to allow an additional 30 days for public comments. Comments are encouraged and will be accepted until September 21, 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 oir_submission@omb.eop.gov.

When submitting comments by e-mail please make sure to add OMB Control Number 1615-0019 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 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 Removal.

(3) *Agency form number, if any, and the applicable Department of Homeland Security component sponsoring the collection:* Form I-243. 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 information provided on this form allows the USCIS to determine eligibility for an applicant's request for removal from the United States.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 41 responses at 30 minutes (.50 hours) per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 20 annual burden hours.

If you need a copy of the information collection instrument, please visit the Web site at: <http://www.regulations.gov/search/Regs/home.html#home>.

We may also be contacted at: USCIS, Regulatory Products Division, 111 Massachusetts Avenue, NW., Washington, DC 20529-2210; Telephone 202-272-8377.

Dated: August 13, 2009.

Sunday Aigbe,

Chief, Regulatory Products Division, U.S. Citizenship and Immigration Services, Department of Homeland Security.

[FR Doc. E9-19916 Filed 8-19-09; 8:45 am]

BILLING CODE 9111-97-P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

Agency Information Collection Activities: Form G-884, Extension of an Existing Information Collection; Comment Request

ACTION: 30-Day Notice of Information Collection Under Review: Form G-884, Request for the Return of Original Document(s); OMB Control No. 1615-0100.

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 June 2, 2009, at 74 FR 26414, allowing for a 60-day public comment period. USCIS did not receive any comments for this information collection.

The purpose of this notice is to allow an additional 30 days for public comments. Comments are encouraged and will be accepted until September 21, 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 oir_submission@omb.eop.gov.

When submitting comments by e-mail please make sure to add OMB Control Number 1615-0100. 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:* Request for the Return of Original Document(s).

(3) *Agency form number, if any, and the applicable component of the Department of Homeland Security sponsoring the collection:* Form G-884, 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 provided will be used by the USCIS to determine whether a person is eligible to obtain original document(s) contained in his or her own alien file.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 7,500 responses at 30 minutes (0.50) per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 3,750 annual burden hours.

If you need a copy of the information collection instrument, please visit the Web site at: <http://www.regulations.gov/search/Regs/home.html#home>.

We may also be contacted at: USCIS, Regulatory Products Division, 111 Massachusetts Avenue, NW., Washington, DC 20529-2210; Telephone 202-272-8377.

Dated: August 14, 2009.

Sunday Aigbe,

Chief, Regulatory Products Division, U.S. Citizenship and Immigration Services, Department of Homeland Security.

[FR Doc. E9-19913 Filed 8-19-09; 8:45 am]

BILLING CODE 9111-97-P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

Agency Information Collection Activities: File No. OMB-27, Extension of a Currently Approved Information Collection; Comment Request

ACTION: 30-Day Notice of Information Collection Under Review: File No. OMB-27, Application Requirements for Adjustment of Status under Section 586 of Public Law 106-249; OMB Control No. 1615-0081.

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 June 2, 2009, at 74 FR 26410 allowing for a 60-day public comment period. USCIS did not receive any comments for this information collection.

The purpose of this notice is to allow an additional 30 days for public comments. Comments are encouraged and will be accepted until September 21, 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 oir_submission@omb.eop.gov.

When submitting comments by e-mail please make sure to add OMB Control

Number 1615-0081. Written comments and suggestions from the public and affected agencies 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 Requirements for Adjustment of Status under Section 586 of Public Law 106-249.

(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-27); 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. This information is necessary to determine if an applicant is eligible for the benefits available to certain aliens under section 586 of Public Law 106-429.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 5000 responses at 30 minutes (.50) per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 2,500 annual burden hours.

If you need additional information, please visit the Web site at: <http://www.regulations.gov/search/index.jsp>, or contact: USCIS, Regulatory Products Division, 111 Massachusetts Avenue, Washington, DC 20529-2210, (202) 272-8377.

Dated: August 14, 2009.

Sunday Aigbe,

Chief, Regulatory Products Division, U.S. Citizenship and Immigration Services, Department of Homeland Security.

[FR Doc. E9-19910 Filed 8-19-09; 8:45 am]

BILLING CODE 9111-97-P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

Agency Information Collection Activities: Form I-363, Extension of an Existing Information Collection; Comment Request

ACTION: 30-Day Notice of Information Collection Under Review: Form I-363, Request to Enforce Affidavit of Financial Support and Intent to Petition for Custody for Public Law 97-359 Amerasian; OMB Control Number 1615-0022.

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 June 2, 2009, at 74 FR 26413 allowing for a 60-day public comment period. USCIS did not receive any comments for this information collection.

The purpose of this notice is to allow an additional 30 days for public comments. Comments are encouraged and will be accepted until September 21, 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 to rfs.regs@dhs.gov, and to the OMB USCIS Desk Officer via facsimile at 202-395-5806 or via e-mail at oir_submission@omb.eop.gov.

When submitting comments by e-mail please make sure to add OMB Control Number 1615-0022. 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 agencies 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 a currently approved information collection.

(2) *Title of the Form/Collection:* Request to Enforce Affidavit of Financial Support and Intent to Petition for Custody for Public Law 97-359 Amerasian.

(3) *Agency form number, if any and the applicable component of the Department of Homeland Security sponsoring the collection:* Form I-363. 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 to ensure the financial support of an Amerasian child of a U.S. citizen.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 50 responses at 30 minutes (.50) hours per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 25 annual burden hours.

If you need a copy of the information collection instrument, please visit the Web site at: <http://www.regulations.gov/search/Regs/home.html#home>.

We may also be contacted at: USCIS, Regulatory Products Division, 111 Massachusetts Avenue, NW., Washington, DC 20529-2210; Telephone 202-272-8377.

Dated: August 14, 2009.

Sunday Aigbe,

Chief, Regulatory Products Division, U.S. Citizenship and Immigration Services, Department of Homeland Security.

[FR Doc. E9-19909 Filed 8-19-09; 8:45 am]

BILLING CODE 9111-97-P

DEPARTMENT OF HOMELAND SECURITY

Transportation Security Administration

Intent To Request Approval From OMB of One New Public Collection of Information: Pipeline Corporate Security Review

AGENCY: Transportation Security Administration, DHS.

ACTION: 60-Day notice.

SUMMARY: The Transportation Security Administration (TSA) invites public comment on an information collection requirement abstracted below that we will submit to the Office of Management and Budget (OMB) for approval in compliance with the Paperwork Reduction Act. The collection will assess the current security practices in the pipeline industry by way of its Pipeline Corporate Security Review (PCSR) program, which encompasses site visits and interviews, and is part of the larger domain awareness, prevention, and protection program supporting TSA's and the Department of Homeland Security's (DHS') missions.

DATES: Send your comments by October 19, 2009.

ADDRESSES: Comments may be mailed or delivered to Ginger LeMay, PRA Officer, Office of Information Technology, Transportation Security Administration, 601 South 12th Street, Arlington, VA 20598-6011.

FOR FURTHER INFORMATION CONTACT: Ginger LeMay, PRA Officer, Office of Information Technology, TSA-11, Transportation Security Administration, 601 South 12th Street, Arlington, Virginia 20598-6011; telephone (571) 227-3616; e-mail: ginger.lemay@dhs.gov.

SUPPLEMENTARY INFORMATION:

Comments Invited

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid OMB control number. Therefore, in preparation for the following information collection, TSA is soliciting comments to—

(1) Evaluate whether the proposed information requirement 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;

(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 using appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Information Collection Requirement

The Pipeline Corporate Security Review is a new information collection request that will assess domain awareness, threat prevention, and security awareness at various pipeline sites across the nation. TSA's pipeline subject matter expert(s) will visit sites, interview pipeline operators and/or system owners, and use a pipeline security review form to gather information.

Under the Aviation and Transportation Security Act (ATSA)¹ and delegated authority from the Secretary of Homeland Security, TSA has broad responsibility and authority for "security in all modes of transportation * * * including security responsibilities * * * over modes of transportation that are exercised by the Department of Transportation."² TSA has additional authorities as well. TSA is specifically empowered to develop policies, strategies, and plans for dealing with threats to transportation,³ oversees the implementation and ensures the adequacy of security measures at transportation facilities,⁴ and carries out other appropriate duties relating to transportation security.⁵

¹ Public Law 107-71, 115 Stat. 597 (November 19, 2001).

² See 49 U.S.C. 114(d). The TSA Assistant Secretary's current authorities under ATSA have been delegated to her/him by the Secretary of Homeland Security. Section 403(2) of the Homeland Security Act (HSA) of 2002, Public Law 107-296, 116 Stat. 2315 (2002), transferred all functions of TSA, including those of the Secretary of Transportation and the Under Secretary of Transportation of Security related to TSA, to the Secretary of Homeland Security. Pursuant to DHS Delegation Number 7060.2, the Secretary delegated to the Assistant Secretary (then referred to as the Administrator of TSA), subject to the Secretary's guidance and control, the authority vested in the Secretary with respect to TSA, including that in section 403(2) of the HSA.

³ 49 U.S.C. 114(f)(3).

⁴ 49 U.S.C. 114(f)(11).

⁵ 49 U.S.C. 114(f)(15).

Purpose and Description of Data Collection

One way TSA carries out these responsibilities in the pipeline mode is by assessing current industry security practices by way of its PCSR. The PCSR encompasses site visits and interviews and is one piece of a much larger domain awareness, prevention, and protection program in support of TSA's and DHS' missions. TSA is seeking OMB approval for this information collection so that TSA can ascertain minimum security standards and identify coverage gaps, activities that are critical to carrying out its transportation security mission.

The PCSR is an "instructive" review that provides TSA with an understanding of certain surface transportation owners'/operators' security programs, if they have voluntarily adopted such programs. In carrying out PCSRs, subject matter experts from TSA's Pipeline Security Division conduct site visits of pipeline operators throughout the nation that elected to adopt security plans. The TSA representatives analyze the owner's/operator's security plan and determine if the mitigation measures included in the plan are being properly implemented. In addition to examining the security plan document, TSA reviews one or more assets of the owner/operator. TSA conducts this collection of information on security measures to identify security gaps. The discussions also provide TSA with a method to encourage the pipeline owners/operators affected by the PCSRs to be diligent in implementing and maintaining security-related improvements.

During the pipeline site visits, TSA talks with the owner/operator and completes a PCSR form, which asks questions concerning the following topics: (1) Management and oversight of the security plan, (2) threat assessment, (3) criticality, (4) vulnerability assessment, (5) credentialing, (6) training, (7) physical security countermeasures, (8) information technology security, (9) security exercises and drills, and (10) incident management and communications. TSA conducts this collection through voluntary face-to-face visits, usually at the headquarters facility of the pipeline owners/operator. Typically, TSA sends one to three employees to conduct a three to four hour interview with representatives from the owner/operator. TSA then visits one or two of the owners/operators assets to further assess the implementation of the owner's/operator's security plan. TSA

plans to collect information from pipeline operators of all sizes in the course of conducting these PCSRs.

Use of Results

This program provides TSA with real-time information on current security practices within the pipeline mode of the surface transportation sector. This information allows TSA to adapt programs to the changing security threat, while incorporating an understanding of the improvements owners/operators make in their security measures. Without this information, the ability of TSA to perform its security mission would be severely hindered.

Additionally, the relationships these face-to-face contacts foster are critical to the Federal government's ability to reach out to the pipeline stakeholders affected by the PCSRs. The relationships foster a sense of trust and a willingness to share information with the Federal

government. TSA assures respondents that the portion of their responses that is deemed Sensitive Security Information (SSI) will be protected in accordance with procedures meeting the transmission, handling, and storage requirements of SSI set forth in 49 CFR parts 15 and 1520.

The annual hour burden for this information collection is estimated to be 100 hours. While TSA estimates a total of 2,200 potential respondents, this estimate is based on TSA conducting 12 visits per year and each visit lasting 8 hours. There is no cost burden to respondents.

Issued in Arlington, Virginia, on August 14, 2009.

Ginger LeMay,
Paperwork Reduction Act Officer, Office of Information Technology.
[FR Doc. E9-19959 Filed 8-19-09; 8:45 am]

BILLING CODE 9110-05-P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

Notice of Cancellation of Customs Broker Licenses

AGENCY: U.S. Customs and Border Protection, U.S. Department of Homeland Security.

ACTION: General notice.

SUMMARY: Pursuant to section 641 of the Tariff Act of 1930, as amended, (19 U.S.C. 1641) and the Customs Regulations (19 CFR 111.51), the following Customs broker licenses and all associated permits are cancelled without prejudice.

Name	License No.	Issuing port
Rafael I. Morales	13682	Laredo.
Deborah C. Martin	11423	Los Angeles.
Thomas Tello	06319	Los Angeles.
Thomas Tello & Co., Inc	09841	Los Angeles.
World International Freight Forwarders, Inc	04187	New Orleans.
Kay Diamond, Ltd. dba Salviati & Santori	15788	New Orleans.
Pronto Cargo Brokers, Inc	06437	Miami.

Dated: August 11, 2009.

Daniel Baldwin,
Assistant Commissioner, Office of International Trade.
[FR Doc. E9-20036 Filed 8-19-09; 8:45 am]
BILLING CODE 9111-14-P

Dated: August 11, 2009.

Daniel Baldwin,
Assistant Commissioner, Office of International Trade.
[FR Doc. E9-20035 Filed 8-19-09; 8:45 am]
BILLING CODE 9111-14-P

multifunctional machines for purposes of U.S. Government procurement.

DATES: The final determination was issued on August 12, 2009. A copy of the final determination is attached. Any party-at-interest, as defined in 19 CFR 177.22(d), may seek judicial review of this final determination within September 21, 2009.

FOR FURTHER INFORMATION CONTACT: Karen S. Greene, Valuation and Special Programs Branch, Regulations and Rulings, Office of International Trade (202-325-0041).

SUPPLEMENTARY INFORMATION: Notice is hereby given that on _____, pursuant to subpart B of part 177, Customs Regulations (19 CFR part 177, subpart B), CBP issued a final determination concerning the country of origin of certain multifunctional machines which may be offered to the United States Government under a government procurement contract. This final determination, in HQ H039856, was issued at the request of Sharp Electronics Corporation under procedures set forth at 19 CFR part 177, subpart B, which implements Title III of the Trade Agreements Act of 1979, as amended (19 U.S.C. 2511-18). In the final determination, CBP concluded that, based upon the facts presented,

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

Notice of Cancellation of Customs Broker Licenses Due to Death of the License Holder

AGENCY: U.S. Customs and Border Protection, U.S. Department of Homeland Security.

ACTION: General notice.

SUMMARY: Notice is hereby given that, pursuant to Title 19 of the Code of Federal Regulations at section 111.51(a), the following individual Customs broker license and any and all permits have been cancelled due to the death of the broker:

Name	License #	Port name
Sandra P. Brown ..	06855	Charlotte.

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

Notice of Issuance of Final Determination Concerning Multifunctional Machines

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: Notice of final determination.

SUMMARY: This document provides notice that U.S. Customs and Border Protection ("CBP") has issued a final determination concerning the country of origin of certain multifunctional machines which may be offered to the United States Government under a government procurement contract. Based upon the facts presented, in the final determination CBP concluded that Japan is the country of origin of the

certain articles will be substantially transformed in Japan. Therefore, CBP found that Japan is the country of origin of the finished articles for purposes of U.S. Government procurement.

Section 177.29, Customs Regulations (19 CFR 177.29), provides that notice of final determinations shall be published in the **Federal Register** within 60 days of the date the final determination is issued. Section 177.30, CBP Regulations (19 CFR 177.30), provides that any party-at-interest, as defined in 19 CFR 177.22(d), may seek judicial review of a final determination within 30 days of publication of such determination in the **Federal Register**.

Dated: August 12, 2009.

Sandra L. Bell,

Executive Director, Office of Regulations and Rulings, Office of International Trade.

Attachment

HQ H039856

August 12, 2009.

OT:RR:CTF:VS H039856 KSG.

Mr. Edmund Baumgartner, Esq.,
Pillsbury Winthrop Shaw Pittman LLP, 1540
Broadway, New York, NY 10036.

Re: U.S. Government Procurement; country of origin of multifunctional printer machines; substantial transformation

Dear Mr. Baumgartner: This is in response to your letters, dated November 26, 2007, July 2, 2008, and November 10, 2008, requesting a final determination on behalf of Sharp Electronics Corporation ("Sharp") pursuant to subpart B of 19 CFR Part 177.

Under these regulations, which implement Title III of the Trade Agreements Act of 1979, as amended (19 U.S.C. 2511 *et seq.*), CBP issues country of origin advisory rulings and final determinations as to whether an article is or would be a product of a designated country or instrumentality for the purposes of granting waivers of certain "Buy American" restrictions in U.S. law or practice for products offered for sale to the U.S. Government.

This final determination concerns the country of origin of certain multifunctional machines that Sharp may sell to the U.S. Government. We note that Sharp is a party-at-interest within the meaning of 19 CFR 177.22(d)(1) and is entitled to request this final determination. A conference was held on this matter at Headquarters on August 25, 2008.

FACTS

This case involves the Sharp Jupiter II J-models that are sent to the U.S. for final assembly (Sharp model # MX-M350NJ, MX-M350UJ, MX-M450NJ, and MX-450OUJ) ("J-models"). These models have digital multifunctional systems (monochrome copying, printing, faxing and duplex scanning functions). The Jupiter II J-models designated with an "N" feature a hard disc drive and network interface card which allows them to function as networked printers and send scanned documents in the form of e-mail attachments in various

formats. The Jupiter II J-models designated with a "U" are not equipped with a hard disk or network interface card and function with stand-alone capacity.

Sharp Corporation, Sharp's parent company ("Sharp Japan") developed the Jupiter II J-models in Japan; all the engineering, development, design and artwork processes were developed in Japan. Each J-model is produced from a scanner unit and printer engine unit, which are assembled in Japan.

The scanner units and printer engine units are imported into the U.S. where each is combined with a scanner rack and stand which can contain optional paper feed drawers.

There are 16 main subassemblies that compose the Jupiter II J-models.

Assembly in China

Assembly in China includes assembly of the duplex single pass feeder ("DSPF") subassembly; the laser scanning unit ("LSU") subassembly; the transfer unit subassembly; the developer ("DV") unit subassembly; the printer control unit ("PCU"); the fusing unit subassembly; the multifunctional printer ("MFP") control unit and various other subassemblies.

(1) The DSPF subassembly transports original documents to the scanning bed.

(2) The LSU subassembly takes the image data of the documents or graphics and converts the data into laser beams which are exposed to the drum surface and create the electrostatic images necessary for printing.

(3) The transfer belt unit transfers the image created on the drum onto the surface of the paper for printing. This unit is assembled in China.

(4) The developer unit ("DV") is used to transfer toner evenly over the latent image created on the drum unit.

(5) The PCU controls the printing function of the J-models. It is comprised of a control printed wire board ("PWB") and mother PWB that are stuffed in China.

(6) The fusing unit is used to fix the transferred image onto paper.

Processing and Assembly in Japan of the Scanner Unit and the Printer Engine Unit

The following parts which are stated to be critical components are produced in Japan: the charge-coupled device ("CCD"), the contact image sensor ("CIS"), the laser scanning unit ("LSU") housing, the LSU fixing base, the LSU synchronous lens, the LSU two cylinder lenses, the transfer roller, the drum, the DSD flange, the DSD flange spacer, the rollers, the lamps, the thermistors, the thermostat, the cleaning roller, two sets of pawls, and the flash memory chips.

Eight of the 16 subassemblies involve processing in Japan; the upper cabinet rear unit; scanner base plate unit; the scanner control mounting unit; the process unit subassembly; the drum unit subassembly; the two rear frame units; the control box; and the high voltage holder unit.

(1) The upper cabinet rear unit contains the detector luminescence arm and ORS emission printer wire board, which detect the size and placement of original documents on the scanning bed.

(2) The scanner base plate unit contains a charge-coupled device ("CCD") made in Japan, which is stated to be a critical component for scanning and copying documents. The scanning base plate unit contains lamps and mirror motors which illuminate and reflect the image for scanning by the CCD.

(3) The scanner control mounting unit contains PWBs for operating the original document detector and guides and harnesses to hold the scanner's optical components in place.

(4) The process unit subassembly stores the drum used for creating images.

(5) The drum unit contains the drum. The drum unit is assembled in Japan with parts made in China and Japan.

(6) Rear frame 2 unit is assembled from the rear fixing plate unit, solenoid fixing plate unit, dust support plate unit and other frames, mounts, holder and plates. Rear frame 1 unit is assembled from the main duct, fusing drawer, fixing plate, paper powder remover case unit, box cooling duct unit and other parts.

(7) The control box unit is assembled with the control box upper unit and other parts.

(8) The high voltage holder unit is assembled from a Chinese holder and other parts.

Additional units are installed in the printer engine in Japan including the developer guide unit, left door unit, cassette unit, PS roller (resist roller) unit, main drive unit, paper feed unit, lift-up unit, paper exit reverse unit, power supply unit, PCU PWB fixing sub unit and inlet fixing unit.

Final assembly of the scanner unit and printer engine unit are then performed in Japan. All functions of the printer engine and scanner unit undergo adjustment and testing prior to being exported to the U.S. You state that the testing and adjustment process takes as much or more time than the physical assembly of the product and require skilled personnel.

Final Assembly in the U.S.

The scanner unit and the printer engine unit are imported into the U.S. where they are assembled onto a scanner rack and a scanner stand to create the finished multifunctional machine. Final testing of the machine is then performed.

The basic scanner stand is made in the U.S.

The scanner rack and stand with paper feed drawers (either 1,500 sheet or 2,500 sheet) are made in China.

ISSUE

What is the country of origin of the subject multifunctional printer machines for the purpose of U.S. Government procurement?

LAW AND ANALYSIS

Pursuant to Subpart B of Part 177, 19 CFR 177.21 *et seq.*, which implements Title III of the Trade Agreements Act of 1979, as amended (19 U.S.C. 2511 *et seq.*), CBP issues country of origin advisory rulings and final determinations as to whether an article is or would be a product of a designated country or instrumentality for the purposes of granting waivers of certain "Buy American" restrictions in U.S. law or practice for products offered for sale to the U.S. Government.

Under the rule of origin set forth under 19 U.S.C. 2518(4)(B):

An article is a product of a country or instrumentality only if (i) it is wholly the growth, product, or manufacture of that country or instrumentality, or (ii) in the case of an article which consists in whole or in part of materials from another country or instrumentality, it has been substantially transformed into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was so transformed.

See also 19 CFR 177.22(a).

In determining whether the combining of parts or materials constitutes a substantial transformation, the determinative issue is the extent of operations performed and whether the parts lose their identity and become an integral part of the new article. *Belcrest Linens v. United States*, 573 F. Supp. 1149 (Ct. Int'l Trade 1983), *aff'd*, 741 F.2d 1368 (Fed. Cir. 1984). Assembly operations that are minimal or simple, as opposed to complex or meaningful, will generally not result in a substantial transformation. See C.S.D. 80-111, C.S.D. 85-25, C.S.D. 89-110, C.S.D. 89-118, C.S.D. 90-51, and C.S.D. 90-97. In C.S.D. 85-25, 19 Cust. Bull. 844 (1985), CBP held that for purposes of the Generalized System of Preferences ("GSP"), the assembly of a large number of fabricated components onto a printed circuit board in a process involving a considerable amount of time and skill resulted in a substantial transformation. In that case, in excess of 50 discrete fabricated components (such as resistors, capacitors, diodes, integrated circuits, sockets, and connectors) were assembled. Whether an operation is complex and meaningful depends on the nature of the operation, including the number of components assembled, number of different operations, time, skill level required, attention to detail, quality control, the value added to the article, and the overall employment generated by the manufacturing process.

The courts and CBP have also considered the essential character of the imported article in making these determinations. See *Uniroyal, Inc. v. United States*, 542 F. Supp. 1026, 3 CIT 220, 224-225 (1982) (where it was determined that imported uppers were the essence of a completed shoe) and *National Juice Products Association, et al v. United States*, 628 F. Supp. 978, 10 CIT 48, 61 (1986) (where the court addressed each of the factors (name, character, and use) in finding that no substantial transformation occurred in the production of retail juice products from manufacturing concentrate).

In order to determine whether a substantial transformation occurs when components of various origins are assembled into completed products, CBP considers the totality of the circumstances and makes such determinations on a case-by-case basis. The country of origin of the item's components, extent of the processing that occurs within a country, and whether such processing renders a product with a new name, character, and use are primary considerations in such cases. Additionally, factors such as the resources expended on product design and development, extent and nature of post-

assembly inspection and testing procedures, and worker skill required during the actual manufacturing process will be considered when determining whether a substantial transformation has occurred. No one factor is determinative.

In a number of cases, CBP has considered similar merchandise. In Headquarters Ruling Letter ("HRL") 563491 (February 8, 2007), CBP addressed the country of origin of certain digital color multifunctional systems manufactured by Sharp and assembled in Japan of various Japanese—and Chinese—origin parts. In that ruling, CBP determined that color multifunctional systems were a product of Japan based on the fact that "although several subassemblies are assembled in China, enough of the Japanese subassemblies and individual components serve major functions and are high in value, in particular, the transfer belt, control box unit, application-specific integrated circuits, charged couple device, and laser diodes." Further CBP found that the testing and adjustments performed in Japan were technical and complex, and the assembly operations that occurred in Japan were sufficiently complex and meaningful. Thus, through the product assembly and testing and adjustment operations, the individual components and subassemblies of Japanese and foreign-origin were subsumed into a new and distinct article of commerce that had a new name, character, and use. See also HRL 562936, dated March 17, 2004.

In HRL 561734, dated March 22, 2001, CBP held that certain multifunctional machines (consisting of printer, copier, and fax machines) assembled in Japan were a product of that country for the purposes of U.S. government procurement. The multifunctional machines were assembled from 227 parts (108 parts obtained from Japan, 92 from Thailand, 3 from China, and 24 from other countries) and eight subassemblies, each of which was assembled in Japan. See also HRL 561568, dated March 22, 2001.

Finally, in HRL H020516, dated November 7, 2008, CBP considered Sharp Andromeda II J models composed of eight main subassemblies, two of which involved processing in Japan. Similar to this case, all the engineering, development, design, and artwork were developed in Japan. The multifunctional printer control unit was described as the brain of the model. While some of the components were installed on the control printer board in China, the flash read-only memory which included firmware developed in Japan, was manufactured in Japan. The other unit that involved production in Japan was the process unit, that housed a drum produced in Japan. The process unit was assembled in China. The other subassemblies were assembled in China but certain key components of the subassemblies originated in Japan. The final assembly was performed in Japan.

Based on the totality of the circumstances discussed in this ruling, we agree that the Jupiter II J-models described in this ruling are considered a product of Japan. As was determined in HRL 563491 and HRL H020516, substantial portions of the components that are of key importance are of

Japanese origin and all the engineering, design and development of the multifunctional machines occurs in Japan. As in H020516, we find the final assembly of the subassemblies into a finished product in Japan to be sufficiently complex and meaningful to result in a new and distinct article of commerce that possesses a new name, character and use. In this case, we also note that 8 of the 16 subassemblies involve processing in Japan. In addition, the testing and adjustment of the multifunctional machines in Japan is significant.

The processing that occurs in the U.S., which involves the assembly of the finished printer engines and scanners to the stand and rack, is a simple assembly operation that is not demonstrated to be complex or meaningful and does not involve a large number of components. Based on these factors, we find that there is no substantial transformation in the U.S.

Accordingly, the country of origin of the Jupiter II J-model multifunctional printer machines is Japan for purposes of U.S. Government procurement.

HOLDING

Based on the facts of this case, the country of origin of the Jupiter II J-model multifunctional printer machines is Japan for purposes of U.S. Government procurement.

Notice of this final determination will be given in the **Federal Register**, as required by 19 CFR 177.29. Any party-at-interest other than the party which requested this final determination may request, pursuant to 19 CFR 177.31 that CBP reexamine the matter anew and issue a new final determination. Pursuant to 19 CFR 177.30, any party-at-interest may, within 30 days after publication of the **Federal Register** Notice referenced above, seek judicial review of this final determination before the Court of International Trade.

Sincerely,

Sandra L. Bell,

Executive Director, Office of Regulations and Rulings, Office of International Trade.

[FR Doc. E9-19953 Filed 8-19-09; 8:45 am]

BILLING CODE P

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

Agency Information Collection; Activities Under OMB Review; Comment Request

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice of renewal of a currently approved collection (OMB No. 1006-0015).

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), the Bureau of Reclamation (Reclamation) has forwarded the following Information Collection Request (ICR) to the Office of

Management and Budget (OMB) for review and approval: Diversions, Return Flows, and Consumptive Use of Colorado River Water in the Lower Colorado River Basin, OMB Control Number: 1006-0015. The ICR describes the nature of the information collection and its expected cost and burden.

DATES: Comments on this notice must be received by September 21, 2009.

ADDRESSES: You may send written comments to the Desk Officer for the Department of the Interior at the Office of Management and Budget, Office of Information and Regulatory Affairs, via facsimile at 202-395-5806 or by e-mail to OIRA_DOCKET@omb.eop.gov. A copy of your comments should also be directed to the Bureau of Reclamation, Attention: Nancy DiDonato (BCOO-4445), Contract and Repayment Specialist, Lower Colorado Regional Office, P.O. Box 61470, Boulder City, NV 89006-1470.

FOR FURTHER INFORMATION CONTACT: For further information or a copy of the proposed collection of information,

contact Nancy DiDonato at 702-293-8532.

SUPPLEMENTARY INFORMATION:

Title: Diversions, Return Flow, and Consumptive Use of Colorado River Water in the Lower Colorado River Basin.

OMB No.: 1006-0015.

Form No.: LC-72, 72A, 72B.

Abstract: Reclamation delivers Colorado River water to water users for diversion and beneficial consumptive use in the States of Arizona, California, and Nevada. The Consolidated Decree of the United States Supreme Court in the case of *Arizona v. California, et al.*, entered March 27, 2006, (547 U.S. 150 (2006)), requires the Secretary of the Interior to prepare and maintain complete, detailed, and accurate records of diversions of water, return flow, and consumptive use and make these records available at least annually. This information is needed to ensure that a State or a water user within a State does not exceed its authorized use of Colorado River water. Water users are obligated by provisions in their water delivery contracts to provide

Reclamation information on diversions and return flows. Reclamation determines the consumptive use by subtracting return flow from diversions or by other engineering means. Without the information collected, Reclamation could not comply with the order of the United States Supreme Court to prepare and maintain detailed and accurate records of diversions, return flow, and consumptive use. Responses are required to obtain a benefit.

Description of respondents: The respondents will include the Lower Basin States (Arizona, California, and Nevada), local and tribal entities, water districts, and individuals that use Colorado River water.

Frequency: Monthly, annually, or otherwise as determined by the Secretary of the Interior.

Estimated Total Number of Respondents: 54.

Estimated Total Number of Annual Responses: 330.

Estimated Total Annual Burden Hours: 290.

Estimated Burden for Each Form:

Form No.	Estimated number of respondents	Total responses per year	Estimated annual burden hours per form
LC-72	6	78	54
LC-72A	8	20	30
LC-72B	15	51	78
Custom Forms	25	181	128
Total	54	330	290

Comments:

Reclamation invites your comments on:

(a) Whether the proposed collection of information is necessary for the proper performance of our functions, including whether the information will have practical use;

(b) The accuracy of our burden estimate for the proposed collection of information;

(c) Ways to enhance the quality, usefulness, and clarity of the information to be collected; and

(d) Ways to minimize the burden of the information collection on respondents, including the use of automated collection techniques or other forms of information technology.

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. Reclamation will display a valid OMB control number on all forms covered under OMB Control Number 1006-0015.

A **Federal Register** notice with a 60-day comment period soliciting comments on this collection of information was published in the **Federal Register** (74 FR 17982, April 20, 2009). No public comments were received.

OMB has up to 60 days to approve or disapprove this information collection, but may respond after 30 days; therefore, public comment should be submitted to OMB within 30 days in order to assure maximum consideration.

Before including your address, telephone number, e-mail address, or other personal identifying information in your comment, you should be aware that your entire comment (including your personal identifying information) may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public

review, we cannot guarantee that we will be able to do so.

Steven C. Hvinden,

Area Manager, Boulder Canyon Operations Office, Lower Colorado Region, Bureau of Reclamation.

[FR Doc. E9-20051 Filed 8-19-09; 8:45 am]

BILLING CODE 4310-MN-P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLWO270000-L63500000.PPN0000]

Extension of Approved Information Collection, OMB Control Number 1004-0058

AGENCY: Bureau of Land Management, Interior.

ACTION: 60-day notice and request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the Bureau of Land Management (BLM)

announces its intention to request that the Office of Management and Budget (OMB) extend approval for the paperwork requirements in 43 CFR part 5420, which pertain to timber export reporting and substitution determination requirements. The Office of Management and Budget (OMB) previously approved this information collection activity under the control number 1004-0058.

DATES: You must submit your comments to the BLM at the address below on or before October 19, 2009. The BLM is not obligated to consider any comments postmarked or received after the above date.

ADDRESSES: You may mail comments to: U.S. Department of the Interior, Bureau of Land Management, Mail Stop 401-LS, 1849 C St., NW., Washington, DC 20240, Attention: 1004-0058. You may also comment by e-mail at: Jean_Sonneman@blm.gov. Comments will be available for public review at the L Street address during regular business hours (7:45 a.m. to 4:15 p.m.), Monday through Friday, excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: You may contact Scott Lieurance, Bureau of Land Management, Chief, Division of Forestry at (202) 912-7246 (Commercial or FTS). Persons who use a

telecommunication device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) on 1-800-877-8339, 24 hours a day, seven days a week, to contact Mr. Lieurance. You may also contact Mr. Lieurance to obtain a copy, at no cost, of the regulations and forms that require this collection of information.

SUPPLEMENTARY INFORMATION: OMB regulations at 5 CFR part 1320, which implement provisions of the Paperwork Reduction Act (44 U.S.C. 3501-3521), require that interested members of the public and affected agencies be provided an opportunity to comment on information collection and recordkeeping activities (see 5 CFR 1320.8(d) and 1320.12(a)). This notice identifies information collections that are contained in 43 CFR part 5420, which pertain to timber export reporting and substitution determination requirements. The BLM will request that the OMB approve this information collection activity for a 3-year term.

Comments are invited on: (1) The need for the collection of information for the performance of the functions of the agency; (2) the accuracy of the agency's burden estimates; (3) ways to enhance the quality, utility, and clarity of the information collection; and (4) ways to minimize the information collection burden on respondents, such

as use of automated means of collection of the information. A summary of the public comments will accompany the BLM's submission of the information collection requests to OMB.

The following information is provided for the information collection:

Title: Preparation for Sales; Preparation of Contract; Sales Administration (43 CFR part 5420).

Forms: Form 5460-17, Substitution Determination.

OMB Control Number: 1004-0058.

Abstract: This notice pertains to information collections that govern the compliance of Federal timber purchase with timber export restrictions. The BLM administers export restrictions on timber sales and determine whether there was a substitution of Federal timber for exported private timber. The information collections covered by this notice are found at 43 CFR part 5420; and also in the form listed above.

Frequency: On occasion.

Estimated Number and Description of Respondents: 1.

Estimated Reporting and Recordkeeping "Hour" Burden: The currently approved annual reporting burden for this collection is 1 hour. The following chart details the individual components and respective hour burden estimates of this information collection request:

(a) Regulation 43 CFR subpart	(b) Estimated number of responses annually	(c) Estimated time per response (minutes)	(d) Estimated hours annually (b x c)
5424—Preparation of Contract	1	15	0.25
Totals	1	15	0.25

Estimated Reporting and Recordkeeping "Non-Hour Cost" Burden: The currently approved annual non-hour cost burden for Control Number 1004-0058 is \$0.

The PRA (44 U.S.C. 3501, *et seq.*) provides that an agency may not conduct or sponsor a collection of information unless it displays a currently valid OMB control number. Until OMB approves a collection of information, you are not obligated to respond.

The BLM will summarize all responses to this notice and include them in the request for OMB approval. All comments will become a matter of public record. Before including your address, phone number, e-mail address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal

identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Jean Sonneman,

Acting Information Collection Clearance Officer, Bureau of Land Management.

[FR Doc. E9-20028 Filed 8-19-09; 8:45 am]

BILLING CODE 4310-84-P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS-R9-WSFR-2009-N171] [91405-5110000-241A-7H and 91405-9410000-241A-7H]

Proposed Information Collection; OMB Control Number 1018-0007; Annual Certification of Hunting and Sport Fishing Licenses Issued

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice; request for comments.

SUMMARY: We (Fish and Wildlife Service) will ask the Office of Management and Budget (OMB) to approve the information collection (IC) described below. As required by the Paperwork Reduction Act of 1995 and as part of our continuing efforts to reduce paperwork and respondent

burden, we invite the general public and other Federal agencies to take this opportunity to comment on this IC. This IC is scheduled to expire on January 31, 2010. We may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

DATES: To ensure that we are able to consider your comments on this IC, we must receive them by October 19, 2009.

ADDRESSES: Send your comments on the IC to Hope Grey, Information Collection Clearance Officer, Fish and Wildlife Service, MS 222-ARLSQ, 4401 North Fairfax Drive, Arlington, VA 22203 (mail); or hope_grey@fws.gov (e-mail).

FOR FURTHER INFORMATION CONTACT: To request additional information about this IC, contact Hope Grey by mail or e-mail (see **ADDRESSES**) or by telephone at (703) 358-2482.

SUPPLEMENTARY INFORMATION:

I. Abstract

The Pittman-Robertson Wildlife Restoration Act (16 U.S.C. 669-669k) and the Dingell-Johnson Sport Fish Restoration Act (16 U.S.C. 777-777n except 777e-1) provide authority for Federal assistance to the States for management and restoration of fish and wildlife. These Acts and our regulations at 50 CFR 80.10 require that States, territories, and the District of Columbia annually certify their hunting and fishing license sales. States, territories, and the District of Columbia that receive grants under these Acts use FWS Forms 3-154a (Part I - Certification) and 3-154b (Part II - Summary of Hunting and Sport Fishing Licenses Issued) to certify the number and amount of hunting and fishing license sales. We use the information collected to apportion and distribute funds according to the formula specified in each Act.

II. Data

OMB Control Number: 1018-0007.

Title: Annual Certification of Hunting and Sport Fishing Licenses Issued, 50 CFR 80.10.

Service Form Number(s): 3-154a, 3-154b.

Type of Request: Extension of a currently approved collection.

Affected Public: States, territories (Commonwealth of Puerto Rico, Commonwealth of the Northern Mariana Islands, Guam, Virgin Islands, and American Samoa), and District of Columbia.

Respondent's Obligation: Required to obtain or retain a benefit.

Frequency of Collection: Annually.

Estimated Annual Number of Respondents: 56.

Estimated Total Annual Responses: 112.

Estimated Time Per Response: Average of 12 hours for FWS Form 3-154a and 20 hours for FWS Form 3-154b.

Estimated Total Annual Burden Hours: 1,792.

III. Request for Comments

We invite comments concerning this IC on:

(1) Whether or not the collection of information is necessary, including whether or not the information will have practical utility;

(2) The accuracy of our estimate of the burden for this collection of information;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Ways to minimize the burden of the collection of information on respondents.

Comments that you submit in response to this notice are a matter of public record. We will include or summarize each comment in our request to OMB to approve this IC. Before including your address, phone number, e-mail address, or other personal identifying information in your comment, you should be aware that your entire comment, including your personal identifying information, may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Dated: August 13, 2009.

Hope Grey,

*Information Collection Clearance Officer,
Fish and Wildlife Service.*

FR Doc. E9-19921 Filed 8-19-09; 8:45 am
BILLING CODE 4310-55-S

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLWYP00000-L13200000-EL0000,
LLWYP00000-L51100000-GA0000-
LVEMK09CK330, LLWYP00000-L51100000-
GA0000-LVEMK09CK360, LLWYP00000-
L51100000-GA0000-LVEMK09CK350;
WYW161248, WYW172585, WYW172657,
WYW173360]

Notice of Availability for the South Gillette Area Coal Final Environmental Impact Statement That Includes Four Federal Coal Lease by Applications, Wyoming

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of availability.

SUMMARY: In accordance with the National Environmental Policy Act of 1969 (NEPA) and the Federal Land Policy and Management Act of 1976 (FLPMA), the Bureau of Land Management (BLM) has prepared a Final Environmental Impact Statement (FEIS) for the South Gillette Area Coal project that contains four Federal Coal Lease By Applications (LBAs), and by this Notice announces the availability of the South Gillette Area final EIS for review.

DATES: To ensure comments will be considered, the BLM must receive written comments on the South Gillette Area Coal FEIS by September 16, 2009, which is 30 days after August 17, 2009, the date the Environmental Protection Agency published the Notice of Availability in the **Federal Register** [74 FR 41430].

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

- *E-mail:* casper_wymail@blm.gov.
- *Fax:* 307-261-7587.
- *Mail:* Wyoming High Plains District Office, Bureau of Land Management, Attn: Teresa Johnson, 2987 Prospector Drive, Casper, Wyoming 82604.

Copies of the FEIS are available at the following BLM office locations: BLM Wyoming State Office, 5353 Yellowstone Road, Cheyenne, Wyoming 82009; and BLM Wyoming High Plains District Office, 2987 Prospector Drive, Casper, Wyoming 82604. The FEIS is available electronically on the following Web site: http://www.blm.gov/wy/st/en/info/NEPA/cfdocs/south_gillette.html.

FOR FURTHER INFORMATION CONTACT:

Teresa Johnson or Mike Karbs at the above address, or telephone: 307-261-7600.

SUPPLEMENTARY INFORMATION: The FEIS analyzes the potential impacts for Federal Coal LBAs serialized as WYW161248, WYW172585, WYW172657, and WYW173360 and referred to as the Belle Ayr North, West Coal Creek, Caballo West, and Maysdorf II tracts, in the decertified Powder River Federal Coal Production Region, Wyoming. The BLM is considering issuing these four coal leases as a result of four applications filed between July of 2004 and September of 2006 in accordance with 43 CFR part 3425.

Belle Ayr North Coal Tract

The BLM is considering issuing a coal lease as a result of a July 6, 2004, application made by RAG Wyoming Land Company (RAG) to lease the Federal coal in the Belle Ayr North coal tract (WYW161248). RAG subsequently

sold the Belle Ayr Mine and its associated interests to Foundation Coal Holdings, Inc. (Foundation). From this point forward, the applicant for the Belle Ayr North Tract will be referred to as Foundation. The Belle Ayr North LBA is located in Campbell County, Wyoming, east of Hwy 59 and south of the Bishop Road/Hwy 59 intersection.

Foundation applied for the tract to extend the life of the existing Belle Ayr Mine. The applicant estimated that the tract includes approximately 208.1 million tons of minable Federal coal underlying the following lands in Campbell County, Wyoming:

T. 48 N., R. 71 W., 6th PM, Wyoming
 Section 18: Lots 17, 18, 19 (W^{1/2}, SE^{1/4});
 Section 19: Lots 5 through 19;
 Section 20: Lots 3 (SW^{1/4}), 4 (W^{1/2}, SE^{1/4}),
 5, 6, 7 (S^{1/2}), 9 (S^{1/2}), 10 through 16;
 Section 21: Lots 13, 14;
 Section 28: Lots 3 through 6;
 Section 29: Lots 1, 6;

T. 48 N., R. 72 W., 6th PM, Wyoming
 Section 24: Lots 1, 8.

Containing 1,578.74 acres, more or less.

The Belle Ayr Mine is adjacent to the LBA and has an approved mining and reclamation plan from the Land Quality Division of the Wyoming Department of Environmental Quality (DEQ) and an approved air quality permit from the Air Quality Division of the Wyoming DEQ that allows them to mine up to 45 million tons of coal per year.

West Coal Creek Coal Tract

The BLM is considering issuing a coal lease as a result of a February 10, 2006, application made by Ark Land Company (Ark) to lease the Federal coal in the West Coal Creek coal tract (WYW172585). The West Coal Creek LBA is located in Campbell County east of Hoadley Road approximately 12 miles northeast of the city of Wright, Wyoming.

Ark applied for the tract to extend the life of the existing Coal Creek Mine. The applicant estimated that the tract includes approximately 63.3 million tons of minable Federal coal underlying the following lands in Campbell County, Wyoming:

T. 46 N., R. 70 W., 6th PM, Wyoming
 Section 18: Lots 14 through 17;
 Section 19: Lots 7 through 10, 15 through 18;
 Section 30: Lots 5 through 20.

Containing 1,151.26 acres, more or less.

The Coal Creek Mine is adjacent to the LBA and has an approved mining and reclamation plan from the Land Quality Division of the Wyoming DEQ and an approved air quality permit from the Air Quality Division of the Wyoming DEQ that allows them to mine up to 25 million tons of coal per year.

Caballo West Coal Tract

The BLM is considering issuing a coal lease as a result of a March 15, 2006, application made by Caballo Coal Company (Caballo) to lease the Federal coal in the Caballo West coal tract (WYW172657). The Caballo West LBA is located in Campbell County, Wyoming, east of the Hwy 59/Bishop Road intersection.

Caballo applied for the tract to extend the life of the existing Caballo Mine. The applicant estimated that the tract includes approximately 87.5 million tons of mineable Federal coal underlying the following lands in Campbell County, Wyoming:

T. 48 N., R. 71 W., 6th PM, Wyoming
 Section 7: Lots 12, 19;
 Section 8: Lot 10;
 Section 17: Lots 1 through 10, 11 (N^{1/2}, SE^{1/4}), 12 (NE^{1/4}), 15 (N^{1/2}, SE^{1/4}), 16;
 Section 18: Lot 5, 12 (NE^{1/4});
 Section 20: Lots 1, 2 (NE^{1/4}), 8 (N^{1/2}, SE^{1/4}).

Containing 777.485 acres, more or less.

The Caballo Mine is adjacent to the LBA and has an approved mining and reclamation plan from the Land Quality Division of the Wyoming DEQ and an approved air quality permit from the Air Quality Division of the Wyoming DEQ that allows them to mine up to 50 million tons of coal per year.

Maysdorf II Coal Tract

The BLM is considering issuing a coal lease as a result of a September 1, 2006, application made by Cordero Mining Company (Cordero) to lease the Federal coal in the Maysdorf II coal tract (WYW173360). The Maysdorf II LBA is located in Campbell County, Wyoming, on the east side of Hwy 59 starting approximately 5 miles south of the Bishop Road Hwy 59 intersection. The Maysdorf II LBA has two separate units. The larger of the two units is against the west edge of the Cordero-Rojo Mine. The other unit is to the south of the Cordero-Rojo mine and to the west of the Coal Creek Mine by approximately 1 mile.

Cordero applied for the tract to extend the life of the existing Cordero-Rojo Mine. The applicant estimated that the tract includes approximately 499.7 million tons of minable Federal coal underlying the following lands in Campbell County, Wyoming:

T. 46 N., R. 71 W., 6th PM, Wyoming
 Section 4: Lots 8, 9, 16, 17;
 Section 5: Lots 5, 12, 13, 20;
 Section 9: Lots 6 through 8;
 Section 10: Lots 7 through 10;
 Section 11: Lots 13 through 16;
 Section 14: Lots 1 through 4;
 Section 15: Lots 1 through 4;

T. 47 N., R. 71 W., 6th PM, Wyoming

Section 7: Lots 6 through 11, 14 through 19;

Section 17: Lots 1 through 15, SW^{1/4}NW^{1/4};
 Section 18: Lots 5 through 14, 19, 20;
 Section 20: Lots 1, 8, 9, 16;
 Section 21: Lots 4, 5, 12, 13;
 Section 28: Lots 4, 5, 12, 13;
 Section 29: Lots 1, 8, 9, 16;
 Section 32: Lots 1, 8, 9, 16;
 Section 33: Lots 4, 5, 12, 13;

T. 47 N., R. 72 W., 6th PM, Wyoming
 Section 12: Lots 1 through 16;
 Section 13: Lots 1 through 8.

Containing 4,653.80 acres, more or less.

The Cordero-Rojo Mine is adjacent to the LBA and has an approved mining and reclamation plan from the Land Quality Division of the Wyoming DEQ and an approved air quality permit from the Air Quality Division of the Wyoming DEQ that allows them to mine up to 65 million tons of coal per year.

The FEIS analyzes and discloses to the public direct, indirect, and cumulative environmental impacts of issuing four Federal coal leases in the Wyoming portion of the Powder River Basin. A copy of the FEIS has been sent to affected Federal, State, and local government agencies; persons and entities identified as potentially being affected by a decision to lease the Federal coal in each of the tracts; and persons who indicated to the BLM that they wished to receive a copy of the FEIS.

The Wyoming DEQ, the Office of Surface Mining Reclamation and Enforcement, and the Wyoming Department of Transportation are cooperating agencies in the preparation of the FEIS.

On March 29, 2007, the BLM published a Notice of Intent (NOI) to prepare an EIS for the South Gillette Area coal lease applications in the **Federal Register**. A notice announcing the availability of the Draft EIS was published in the **Federal Register** by the EPA on October 24, 2008. A 60-day comment period on the Draft EIS commenced with publication of the EPA's notice of availability and ended on December 24, 2008. The BLM published a Notice of Availability and Notice of Public Hearing in the **Federal Register** on October 17, 2008. The BLM's **Federal Register** notice announced the date and time of a public hearing, which was held on November 19, 2008, in Gillette, Wyoming. The purpose of the hearing was to solicit comments on the DEIS, on the fair market value, and on the maximum economic recovery of the Federal coal. During the DEIS comment period, the BLM received 18 written comments, which are included, with agency responses, in an appendix to the FEIS.

The FEIS analyzes leasing all of the South Gillette Area coal tracts as a separate Proposed Action. Under the Proposed Action, a competitive sale would be held and a lease issued for Federal coal contained in the tracts as applied for by each of the applicants. As part of the coal leasing process, the BLM is evaluating adding or subtracting Federal coal to the tracts to avoid bypassing coal or to prompt competitive interest in unleased Federal coal in this area. The alternate tract configurations for each of the LBAs that BLM is evaluating are described and analyzed as separate alternatives in the FEIS. Under these alternatives, competitive sales would be held and leases issued for Federal coal lands included in tracts modified by the BLM. The FEIS also analyzes the alternative of rejecting the application(s) to lease Federal coal as the No Action Alternative. The Proposed Actions and alternatives for each of the LBAs being considered in the FEIS are in conformance with the Approved Resource Management Plan for Public Lands Administered by the Bureau of Land Management Buffalo Field Office (2001). A Record of Decision (ROD) will be prepared after the close of the 30-day review period for the FEIS. Comments received on the FEIS will be considered during preparation of the ROD.

Requests to be included on the mailing list for this project and to request copies of the FEIS may be sent in writing, by facsimile, or electronically to the addresses previously stated at the beginning of this notice. The BLM asks that those submitting comments on the FEIS make them as specific as possible with reference to page numbers and chapters of the document. Comments that contain only opinions or preferences will not receive a formal response; however, they will be considered as part of the BLM decision-making process.

Please note that comments and information submitted including names, street addresses, and e-mail addresses of respondents will be available for public review and disclosure at the above address during regular business hours (7:45 a.m. to 4:30 p.m.), Monday through Friday, except holidays.

Before including your address, phone number, e-mail address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we

cannot guarantee that we will be able to do so.

Donald A. Simpson,

State Director.

[FR Doc. E9-20026 Filed 8-19-09; 8:45 am]

BILLING CODE 4310-22-P

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Inventory Completion: Museum of Anthropology, University of Michigan, Ann Arbor, MI

AGENCY: National Park Service, Interior.

ACTION: Notice.

Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains in the possession of the Museum of Anthropology, University of Michigan, Ann Arbor, MI. The human remains were removed from the Wequetonsing area near Harbor Springs, Emmet County, MI.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003 (d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains. The National Park Service is not responsible for the determinations in this notice.

A detailed assessment of the human remains was made by Museum of Anthropology professional staff in consultation with representatives of the Little Traverse Bay Bands of Odawa Indians, Michigan.

In 1924, a collection containing human remains and a variety of archeological materials collected from around Michigan and North America was purchased by the University of Michigan from Rev. L.P. Rowland of Detroit, MI. The human remains and many of the artifacts were recovered from the Lake Michigan shore area in Emmet County, MI. A substantial portion of this collection, including one set of human remains (Accession #206) and cultural items were determined to be culturally affiliated with the Little Traverse Bay Bands of Odawa Indians, Michigan. The individual and cultural items were described in a Notice published in the **Federal Register** (62 FR 8265-8266, February 24, 1997), and were subsequently repatriated later that same year. At that time it was determined that two comingled sets of human remains that were part of the

same accession were not Native American. The human remains are of an adult and a second, younger adult individual. Since that time, based on skeletal and dental morphology, the older individual has been identified as being of mixed European and Native American ancestry. There is insufficient evidence to positively determine the biological affiliation of the younger individual, but they may also be of mixed European and Native American ancestry. No known individuals were identified. No associated funerary objects are present.

Accession and other collections information suggests that the human remains were recovered from the Wequetonsing area near Harbor Springs, MI. Rev. Rowland's catalog indicates that glass beads were found with the human remains. Based on the observation of glass trade beads, the human remains most likely date to the post-contact era in northern Michigan (circa A.D. 1600-1800).

Based on historical documents and consultation with the Little Traverse Bay Bands of Odawa Indians, Michigan, the Odawa occupied the Wequetonsing area throughout much of the historic era. The Wequetonsing area is within the area granted to the Odawa for settlement in treaties signed in 1836 and 1855, and is within the current reservation boundary of the Little Traverse Bay Bands of Odawa Indians, Michigan. While historic sources also mention the presence of Potawatomi, Mascouten, and Ojibwa in the general area, the Odawa are the predominant group associated with the Wequetonsing and Harbor Springs locality.

While the biological ancestry of the two individuals may be mixed, based on the burial treatment of the individual, appearance of grave features as described by Rev. Rowland, and consultation with tribal representatives, officials of the Museum of Anthropology reasonably believe the human remains have a Native American cultural identity. Based on the observation of glass beads, the interments likely date to the historic era. Given the location of the interments, they are most likely culturally affiliated with the Little Traverse Bay Bands of Odawa Indians, Michigan.

Officials of the Museum of Anthropology, University of Michigan have determined that, pursuant to 25 U.S.C. 3001 (9-10), the human remains described above represent the physical remains of two individuals of Native American ancestry. Officials of the Museum of Anthropology, University of Michigan also have determined that, pursuant to 25 U.S.C. 3001 (2), there is

a relationship of shared group identity that can be reasonably traced between the Native American human remains and the Little Traverse Bay Bands of Odawa Indians, Michigan.

Representatives of any other Indian tribe that believes itself to be culturally affiliated with the human remains should contact Dr. John O'Shea, NAGPRA Coordinator, Museum of Anthropology, University of Michigan, Ann Arbor, MI 48109-1079, telephone (734) 764-0485, before September 21, 2009. Repatriation of the human remains to the Little Traverse Bay Bands of Odawa Indians, Michigan may proceed after that date if no additional claimants come forward.

The Museum of Anthropology, University of Michigan is responsible for notifying the Little Traverse Bay Bands of Odawa Indians, Michigan that this notice has been published.

Dated: July 16, 2009.

Sherry Hutt,

Manager, National NAGPRA Program.

[FR Doc. E9-19970 Filed 8-19-09; 8:45 am]

BILLING CODE 4312-50-S

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Inventory Completion: U.S. Department of Agriculture, Forest Service, Daniel Boone National Forest, Winchester, KY

AGENCY: National Park Service, Interior.

ACTION: Notice.

Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains in the possession of the U.S. Department of Agriculture, Forest Service, Daniel Boone National Forest, Winchester, KY. The human remains were removed from three locations in Laurel, McCreary, and Powell Counties, KY.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003 (d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains. The National Park Service is not responsible for the determinations in this notice.

A detailed assessment of the human remains was made by University of Kentucky/Kentucky Archaeological Survey professional staff in consultation with representatives of the Absentee-

Shawnee Tribe of Indians of Oklahoma; Cherokee Nation, Oklahoma; Eastern Band of Cherokee Indians of North Carolina; Eastern Shawnee Tribe of Oklahoma; Shawnee Tribe, Oklahoma; and United Keetoowah Band of Cherokee Indians in Oklahoma.

At an unknown date, human remains representing a minimum of one individual were removed from site 15Ll86, Laurel County, KY. The human remains were found in an artifact collection stored at the Daniel Boone National Forest while doing a collections inventory. The human remains from this site were collected from looter backdirt piles by Forest Service archaeologists who first recorded the site in 1983. No known individual was identified. No associated funerary objects are present.

Artifacts recovered from the site indicate that this site was occupied from the Middle Archaic through Middle Woodland cultural periods dating from 6000 B.C. to A.D. 300. The fragmentary human remains are from unknown contexts within the site.

At an unknown date, human remains representing a minimum of one individual were removed from the Cane Creek locality in Powell County, KY. The human remains were turned over to the Daniel Boone National Forest anonymously. The donor claimed to have been given the human remains by an individual who had removed them from an unidentified site in the Cane Creek area of the Daniel Boone National Forest. No known individual was identified. No associated funerary objects are present.

The human remains are from one middle-aged female (30-50 years). A non-human femoral head was commingled with the remains, but is not considered to be an associated funerary object. The human remains are believed to have come from a prehistoric context, and probably predate A.D. 1700.

Sometime in the 1960s, human remains representing a minimum of six individuals were removed from a rockshelter, probably site 15McY1066, on Forest Service land in McCreary County, KY, by a road construction crew. The human remains were anonymously turned over to the Daniel Boone National Forest. No known individuals were identified. No associated funerary objects are present.

This is the largest of the three collections reported in this notice, and one diagnostic artifact was recovered. Though it is not considered an associated funerary object, it indicates that the site dates from A.D. 900 to 1700.

The contexts from which the three collections of human remains were reportedly removed suggest that they are all prehistoric Native Americans. Since there is no specific provenience information, other than general site locations within a broad temporal context, there is insufficient contextual information to culturally affiliate the human remains with any specific, present-day Indian tribe.

Officials of the Daniel Boone National Forest have determined that, pursuant to 25 U.S.C. 3001 (9-10), the human remains described above represent the physical remains of eight individuals of Native American ancestry. Officials of the Daniel Boone National Forest also have determined that, pursuant to 25 U.S.C. 3001 (2), a relationship of shared group identity cannot be reasonably traced between the Native American human remains and any present-day Indian tribe.

The Native American Graves Protection and Repatriation Review Committee (Review Committee) is responsible for recommending specific actions for the disposition of culturally unidentifiable human remains. In 2008, the Daniel Boone National Forest requested that the Review Committee recommend disposition of the eight culturally unidentifiable human remains to the Absentee-Shawnee Tribe of Indians of Oklahoma; Cherokee Nation, Oklahoma; Eastern Band of Cherokee Indians of North Carolina; Eastern Shawnee Tribe of Oklahoma; Shawnee Tribe, Oklahoma; and United Keetoowah Band of Cherokee Indians in Oklahoma, as aboriginal and historic occupants of lands in Kentucky. The tribes have also requested for the direct reburial of the culturally unidentifiable human remains in the Indian Rest Place Cemetery on the Daniel Boone National Forest, and for the reburial to be witnessed and directed by representatives of the United Keetoowah Band of Cherokee Indians. The Review Committee considered the request at its May 15-16, 2008 meeting and recommended disposition of the human remains to the Absentee-Shawnee Tribe of Indians of Oklahoma; Cherokee Nation, Oklahoma; Eastern Band of Cherokee Indians of North Carolina; Eastern Shawnee Tribe of Oklahoma; Shawnee Tribe, Oklahoma; and United Keetoowah Band of Cherokee Indians in Oklahoma. A January 27, 2009, letter from the Designated Federal Official on behalf of the Secretary of the Interior transmitted the authorization for the Daniel Boone National Forest to effect disposition of the human remains of the eight culturally unidentifiable individuals to the tribes listed above.

and for the reburial to occur contingent on the publication of a Notice of Inventory Completion in the **Federal Register**. This notice fulfills that requirement.

Representatives of any other Indian tribe that believes itself to be culturally affiliated with the human remains should contact the Forest Archaeologist, Daniel Boone National Forest, Winchester, KY 40391, telephone (859) 745-3138, before September 21, 2009. Disposition of the human remains to the Absentee-Shawnee Tribe of Indians of Oklahoma; Cherokee Nation, Oklahoma; Eastern Band of Cherokee Indians of North Carolina; Eastern Shawnee Tribe of Oklahoma; Shawnee Tribe, Oklahoma; and United Keetoowah Band of Cherokee Indians in Oklahoma may proceed after that date if no additional claimants come forward.

The Daniel Boone National Forest is responsible for notifying the Absentee-Shawnee Tribe of Indians of Oklahoma; Cherokee Nation, Oklahoma; Eastern Band of Cherokee Indians of North Carolina; Eastern Shawnee Tribe of Oklahoma; Shawnee Tribe, Oklahoma; and United Keetoowah Band of Cherokee Indians in Oklahoma that this notice has been published.

Dated: July 20, 2009.

Sherry Hutt,

Manager, National NAGPRA Program.

[FR Doc. E9-19971 Filed 8-19-09; 8:45 am]

BILLING CODE 4312-50-S

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Inventory Completion: The Public Museum, Grand Rapids, MI

AGENCY: National Park Service, Interior.

ACTION: Notice.

Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains and associated funerary objects in the possession of The Public Museum, Grand Rapids, MI. The human remains and associated funerary objects were removed from an unknown site in or near Bay City, Bay County, MI.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003 (d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains and associated funerary objects. The

National Park Service is not responsible for the determinations in this notice.

A detailed assessment of the human remains and associated funerary objects was made by The Public Museum's professional staff in consultation with the Little Traverse Bay Bands of Odawa Indians, Michigan and Saginaw Chippewa Indian Tribe of Michigan.

At an unknown date, human remains representing a minimum of three individuals were removed from a burial mound at an unknown location in or near Bay City, Bay County, MI. In 1917, the human remains were purchased by The Public Museum from E.C. Crane. No known individuals were identified. The 19 associated funerary objects are 2 copper kettles, 14 stone flakes, 2 scrapers, and 1 hammerstone.

Museum records indicate the material is from "mound b2," an unknown site that is not recorded in the Michigan State Historic Preservation Office records. Museum records indicate that the human remains were removed from burial mounds, but do not indicate where the removal was for the objects. However, since the objects were found stored with the human remains and are consistent with other associated funerary objects removed from the Bay City area from burial mounds, the cultural items have been determined to be funerary objects associated with these individuals. The remains of one individual are associated with copper kettles suggesting a historic date, and the remaining two individuals were associated with the lithic artifacts, suggesting an unknown earlier context. The associated funerary objects indicate this was a multicomponent mound, and that an historic burial was intrusive to an earlier mound context.

Based on archeological expert opinion, the human remains and associated funerary objects are from a site located within the Saginaw River watershed which has been inhabited by both the Ottawa and Chippewa people, with the Chippewa becoming the dominant group in the Saginaw River Valley by the end of the 17th century. Based on consultation with both the Saginaw Chippewa Indian Tribe of Michigan and Little Traverse Bay Bands of Odawa Indians, Michigan, as well as historical, geographical, and archeological evidence, The Public Museum's professional staff reasonably believe the human remains and associated funerary objects are affiliated with the Saginaw Chippewa Indian Tribe of Michigan.

Officials of The Public Museum have determined that, pursuant to 25 U.S.C. 3001 (9-10), the human remains described above represent the physical

remains of three individuals of Native American ancestry. Officials of The Public Museum also have determined that, pursuant to 25 U.S.C. 3001 (3)(A), the 19 cultural items described above are reasonably believed to have been placed with or near individual remains at the time of death or later as part of the death rite or ceremony. Lastly, officials of The Public Museum have determined that, pursuant to 25 U.S.C. 3001 (2), there is a relationship of shared group identity that can be reasonably traced between the Native American human remains and associated funerary objects and the Saginaw Chippewa Indian Tribe of Michigan.

Representatives of any other Indian tribe that believes itself to be culturally affiliated with the human remains and associated funerary objects should contact Marilyn Merdzinski, Director of Collections and Preservation, The Public Museum, 272 Pearl St. NW., Grand Rapids, MI 49504, telephone (616) 456-3521, before September 21, 2009. Repatriation of the human remains and associated funerary objects to the Saginaw Chippewa Indian Tribe of Michigan may proceed after that date if no additional claimants come forward.

The Public Museum is responsible for notifying the Little Traverse Bay Bands of Odawa Indians, Michigan and Saginaw Chippewa Indian Tribe of Michigan that this notice has been published.

Dated: July 9, 2009.

Sherry Hutt,

Manager, National NAGPRA Program.

[FR Doc. E9-19978 Filed 8-19-09; 8:45 am]

BILLING CODE 4312-50-S

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Inventory Completion: State of Alaska, Alaska State Office of History and Archaeology, Anchorage, AK and Alutiiq Museum and Archaeological Repository, Kodiak, AK

AGENCY: National Park Service, Interior.

ACTION: Notice.

Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains in the control of the State of Alaska, Alaska Office of History and Archaeology, Anchorage, AK, and in the possession of the Alutiiq Museum and Archaeological Repository, Kodiak, AK.

The human remains were removed from Chiniak, AK.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003 (d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains. The National Park Service is not responsible for the determinations in this notice.

A detailed assessment of the human remains was made on behalf of the Alaska State Office of History and Archaeology by Alutiiq Museum and Archaeological Repository staff in consultation with representatives of Koniag, Inc.; Leisnoi, Inc.; Lesnoi Village (aka Woody Island); Natives of Kodiak, Inc.; and Sun'aq Tribe of Kodiak.

Between 1989 and 1991, human remains representing a minimum of three individuals were removed from the Rice Ridge site (49-KOD-00363) near Chiniak, AK, during an excavation by Philomena Hausler Knecht, a Harvard University graduate student. At the conclusion of the excavation all of these human remains were taken to the Kodiak Area Native Association's Alutiiq Culture Center for study and storage. In April 1995, the entire site collection was transferred to the newly founded Alutiiq Museum and Archaeological Repository where they are now stored in association with accession AM19. No known individuals were identified. No associated funerary objects are present.

The human remains from Rice Ridge were found spread in the site's lower midden deposits, and not in association with identified burials. With the exception of 13 teeth and a few small cranial fragments, the remains were identified as human after the excavation and were found in faunal samples over a period of years.

The Rice Ridge site is a large, prehistoric deposit that lies near the coast of Chiniak Bay, on northern Kodiak Island in Alaska's Kodiak archipelago. Carbon dates and temporally diagnostic artifacts illustrate that the site contains a series of distinct occupations that span the Ocean Bay tradition, with initial settlement at about 7100 BP and site abandonment after 4400 BP. The human remains described above were found in association with midden deposits at the site. Depth measurements indicate that the human remains are primarily associated with the deeper and thus older levels of the deposit and indicate an early known expression of the Ocean Bay tradition. Recent archeological

research in the Kodiak archipelago and Chiniak Bay region specifically illustrates that the Ocean Bay tradition is ancestral to the sequent Kachemak tradition, which is in turn ancestral to the Koniag tradition observed at historic contact. Many Kodiak archeologists believe that modern Alutiiqs can trace their ancestors back to the Ocean Bay tradition. As such, human remains from the Rice Ridge site are presumed to be Native American and most closely affiliated with the contemporary Native residents of the Kodiak archipelago, the Kodiak Alutiiq. Specifically, they are from an area traditionally used by citizens and shareholders of Koniag, Inc.; Leisnoi, Inc.; Lesnoi Village (aka Woody Island); Natives of Kodiak, Inc.; and Sun'aq Tribe of Kodiak.

Officials of the Alaska State Office of History and Archaeology and the Alutiiq Museum and Archaeological Repository have determined that, pursuant to 25 U.S.C. 3001 (9-10), the human remains described above represent the physical remains of at least three individuals of Native American ancestry. Officials of the Alaska State Office of History and Archaeology and Alutiiq Museum and Archaeological Repository also have determined that, pursuant to 25 U.S.C. 3001 (2), there is a relationship of shared group identity that can be reasonably traced between the Native American human remains and Koniag, Inc.; Leisnoi, Inc.; Lesnoi Village (aka Woody Island); Natives of Kodiak, Inc.; and Sun'aq Tribe of Kodiak.

Representatives of any other Indian tribe that believes itself to be culturally affiliated with the human remains should contact Dr. Sven Haakanson, Jr., Executive Director, Alutiiq Museum and Archaeological Repository, 215 Mission Rd., Suite 101, Kodiak, AK 99615, telephone (907) 486-7004, before September 21, 2009. Repatriation of the human remains to Koniag, Inc.; Leisnoi, Inc.; Lesnoi Village (aka Woody Island); Natives of Kodiak, Inc.; and Sun'aq Tribe of Kodiak may proceed after that date if no additional claimants come forward.

The Alutiiq Museum and Archaeological Repository is responsible for notifying Koniag, Inc.; Leisnoi, Inc.; Lesnoi Village (aka Woody Island); Natives of Kodiak, Inc.; and Sun'aq Tribe of Kodiak that this notice has been published.

Dated: July 31, 2009.

Sherry Hutt,

Manager, National NAGPRA Program.

[FR Doc. E9-19982 Filed 8-19-09; 8:45 am]

BILLING CODE 4312-50-S

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Inventory Completion: Chemung Valley History Museum, Elmira, NY

AGENCY: National Park Service, Interior.

ACTION: Notice.

Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains in the possession of the Chemung Valley History Museum, Elmira, NY. The human remains were removed from an unknown location in the Puget Sound area of Washington State.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003 (d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains. The National Park Service is not responsible for the determinations in this notice.

A detailed assessment of the human remains was made by New York State Museum professional staff. The Chemung Valley History Museum consulted with representatives of the Puyallup Tribe of the Puyallup Reservation, Washington.

In 1888, human remains representing a minimum of one individual were removed from an unknown site in the Puget Sound area of Washington State, by John James. Subsequently, the human remains were given to James Stowell, who gave them to Dr. Charles Ott, Jr. Dr. Ott, Jr. presented the human remains to the Chemung Valley History Museum in 1972. The discovery and transfer history of the skull was described on a display card from an exhibit of James Stowell's Native American artifacts from 1967. No known individual was identified. No associated funerary objects are present.

The human skull is well-preserved, and belongs to a female between the ages of 20 and 35. The individual has supernumerary tooth and cranial deformation. The shape of the skull indicates cultural modification in the form of skull flattening. The practice of flattening an infant's forehead by using a series of boards and string was a common ancestral tradition among Puget Sound tribes. The distinct shape of this individual's skull suggest s cultural affiliation to the Puget Sound area tribes because of their skull-flattening tradition.

The well-preserved nature of the skull is indicative of an aerial burial technique. New York State Museum staff report that this skull does not show evidence of a ground burial, which suggests the group practiced mainly aerial burial without secondary interment, or collection interrupting the burial cycle.

The Puyallup Tribe is one of the tribes in the Puget Sound area. The history of the Puyallup Tribe records evidence of a "Puyallup graveyard," which was situated between the villages on Commencement Bay and Point Defiance. The graveyard covered approximately one acre of ground and "contained canoes in various conditions." The Puyallup gravesite was upset in 1882, when a farmer received permission to clear the gravesite for use as a pasture. This date, in the same decade that John James discovered the skull in question, might indicate that the skull was unearthed in 1882, and found by Mr. James in 1888. Puyallup canoe burials involved the body being wrapped in robes and blankets and then the entire canoe was covered with mats with shed water, which is a type of aerial burial practiced by the tribes in the Puget Sound area. The Puget Sound ancestral practices of skull-flattening and areal burial are consistent with the assessment of the skull by the New York State Museum professional staff. The tribes in the Puget Sound area are the Muckleshoot Indian Tribe of the Muckleshoot Reservation, Washington; Nisqually Indian Tribe of the Nisqually Reservation, Washington; Puyallup Tribe of the Puyallup Reservation, Washington; Squaxin Island Tribe of the Squaxin Island Reservation, Washington; Squamish Indian Tribe of the Port Madison Reservation, Washington; Swinomish Indians of the Swinomish Reservation, Washington; and Tulalip Tribes of the Tulalip Reservation, Washington.

Officials of the Chemung Valley History Museum have determined that, pursuant to 25 U.S.C. 3001 (9-10), the human remains described above represent the physical remains of one individual of Native American ancestry. Officials of the Chemung Valley History Museum also have determined that, pursuant to 25 U.S.C. 3001 (2), there is a relationship of shared group identity that can be reasonably traced between the Native American human remains and the Muckleshoot Indian Tribe of the Muckleshoot Reservation, Washington; Nisqually Indian Tribe of the Nisqually Reservation, Washington; Puyallup Tribe of the Puyallup Reservation, Washington; Squaxin Island Tribe of the Squaxin Island Reservation,

Washington; Squamish Indian Tribe of the Port Madison Reservation, Washington; Swinomish Indians of the Swinomish Reservation, Washington; and/or Tulalip Tribes of the Tulalip Reservation, Washington.

Representatives of any other tribe that believes itself to be culturally affiliated with the human remains should contact Casey Lewis, Curator, Chemung Valley History Museum, 415 E. Water St., Elmira, NY 14901, telephone (607) 734-4167, before September 21, 2009. Repatriation of the human remains to the Muckleshoot Indian Tribe of the Muckleshoot Reservation, Washington; Nisqually Indian Tribe of the Nisqually Reservation, Washington; Puyallup Tribe of the Puyallup Reservation, Washington; Squaxin Island Tribe of the Squaxin Island Reservation, Washington; Squamish Indian Tribe of the Port Madison Reservation, Washington; Swinomish Indians of the Swinomish Reservation, Washington; and/or Tulalip Tribes of the Tulalip Reservation, Washington may proceed after that date if no additional claimants come forward.

The Chemung Valley History Museum is responsible for notifying the Muckleshoot Indian Tribe of the Muckleshoot Reservation, Washington; Nisqually Indian Tribe of the Nisqually Reservation, Washington; Puyallup Tribe of the Puyallup Reservation, Washington; Squaxin Island Tribe of the Squaxin Island Reservation, Washington; Squamish Indian Tribe of the Port Madison Reservation, Washington; Swinomish Indians of the Swinomish Reservation, Washington; and Tulalip Tribes of the Tulalip Reservation, Washington that this notice has been published.

Dated: July 28, 2009.

Sherry Hutt,

Manager, National NAGPRA Program.

[FR Doc. E9-19984 Filed 8-19-09; 8:45 am]

BILLING CODE 4312-50-S

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Inventory Completion: Fernbank Museum of Natural History, Atlanta, GA

AGENCY: National Park Service, Interior.

ACTION: Notice.

Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C 3003, of the completion of an inventory of human remains and associated funerary objects

in the possession of the Fernbank Museum of Natural History, Atlanta, GA. The human remains and associated funerary objects were removed from St. Catherines Island, Liberty County, GA.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003 (d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains and associated funerary objects. The National Park Service is not responsible for the determinations in this notice.

A detailed inventory and assessment of the human remains and funerary objects was made by Fernbank Museum of Natural History curatorial staff, aided by published reports and other documentation prepared by the American Museum of Natural History, and in consultation with the Alabama-Quassarte Tribal Town, Oklahoma; Muscogee (Creek) Nation, Oklahoma; Poarch Band of Creek Indians of Alabama; Seminole Nation of Oklahoma; Seminole Tribe of Florida (Dania, Big Cypress, Brighton, Hollywood & Tampa Reservations); and the Thlopthlocco Tribal Town, Oklahoma.

The human remains and associated funerary objects described in this notice are from the St. Catherines Island Foundation and Edward John Noble Foundation Archeological Collection, and were removed from sites on privately-owned land on St. Catherines Island, GA, during research conducted under the auspices of the Edward John Noble and the St. Catherines Island Foundations. A phased transfer of the collection to Fernbank Museum of Natural History was initiated in 2004, under a gift agreement with both foundations, and will be completed by January 2010. Presently, Fernbank Museum is in possession of approximately 90 percent of the collection by volume. Except for those individuals and associated funerary objects described in this notice, most of the collection is determined to be culturally unidentifiable. The curatorial staff of the Fernbank Museum do not believe it is possible to trace a shared group identity between present-day Indian tribes and human remains and associated funerary objects that pre-date the late prehistoric Mississippian (Irene) Period (A.D. 1350-1580) on the Georgia coast, since the preponderance of evidence presently available from archeological, ethnohistorical, and other relevant sources does not establish a clear historical affiliation.

In 1969–1970, human remains were removed from Johns Mound (9LI18), Liberty County, GA, during archeological excavations conducted by the University of Georgia under the direction of Dr. Joseph R. Caldwell. The human remains were subsequently subjected to bioarcheological study under the direction of Dr. Clark Spencer Larsen, working in collaboration with the American Museum of Natural History. After storage for intervals at the University of Georgia and on St. Catherines Island, the human remains were transferred to the Fernbank Museum by the Edward John Noble Foundation in 2004. Of the 72 individuals removed, only 2 have been determined to be culturally affiliated. No known individuals were identified. The six associated funerary objects are three ceramic vessels, two bone pins, and one set of fragments of small shell beads.

The majority of the human remains from Johns Mound are determined to be culturally unidentifiable. Exceptions to this determination concern two intrusive burials in Johns Mound with associated materials that date them to the historic Contact (Altamaha) Period (A.D. 1580–1700). Curatorial staff of the Fernbank Museum reasonably believe, based on historical geography, general continuities of material culture, and probable linguistic continuity across the Late Prehistoric/Contact Period boundary, as well as previous NAGPRA determinations for human remains and funerary objects from the Georgia coast, that a relationship of shared group identity can be traced between the historic Contact (Altamaha) Period inhabitants of coastal Georgia and six present-day Indian tribes. These six Indian tribes are the Alabama-Quassarte Tribal Town, Oklahoma; Muscogee (Creek) Nation, Oklahoma; Poarch Band of Creek Indians of Alabama; Seminole Nation of Oklahoma; Seminole Tribe of Florida (Dania, Big Cypress, Brighton, Hollywood & Tampa Reservations); and the Thlopthlocco Tribal Town, Oklahoma.

In 1976–1977, human remains were removed from Seaside Mound II (9LI62), Liberty County, GA, during archeological excavations conducted by the American Museum of Natural History under the direction of Dr. David Hurst Thomas. The human remains were subsequently subjected to bioarcheological study under the direction of Dr. Larsen, working in collaboration with the American Museum of Natural History. After storage for intervals at the American Museum of Natural History and on St. Catherines Island, the human remains

were transferred to the Fernbank Museum by the Edward John Noble Foundation in 2004. Of the 19 individuals removed, only 3 have been determined to be culturally affiliated. No known individuals were identified. No associated funerary objects recovered from the site were transferred to the Fernbank Museum.

The majority of the human remains from Seaside Mound II are determined to be culturally unidentifiable. Exceptions to this determination concern three intrusive burials in Seaside Mound II with associated materials that date them to the late prehistoric Mississippian (Irene) Period (A.D. 1350–1580). Curatorial staff of the Fernbank Museum reasonably believe, based on historical geography, general continuities of material culture, and probable linguistic continuity across the Late Prehistoric/Contact Period boundary, as well as previous NAGPRA determinations for human remains and funerary objects from the Georgia coast, that a relationship of shared group identity can be traced between the historic Contact (Altamaha) Period inhabitants of coastal Georgia and six present-day Indian tribes. These six Indian tribes are the Alabama-Quassarte Tribal Town, Oklahoma; Muscogee (Creek) Nation, Oklahoma; Poarch Band of Creek Indians of Alabama; Seminole Nation of Oklahoma; Seminole Tribe of Florida (Dania, Big Cypress, Brighton, Hollywood & Tampa Reservations); and the Thlopthlocco Tribal Town, Oklahoma.

In 1986, and from 1991 to 1993, human remains representing at least 37 individuals were removed from South End Mound I (9LI3), Liberty County, GA, during archeological excavations. In 1986, the excavations were conducted by the American Museum of Natural History under the direction of Dr. Thomas. In 1991–1993, the excavations were conducted under the direction of Dr. Larsen. The human remains were subsequently subjected to bioarcheological study under the direction of Dr. Larsen. After storage for intervals at Purdue University, University of North Carolina – Chapel Hill, American Museum of Natural History, and on St. Catherines Island, the human remains were transferred to the Fernbank Museum by the Edward John Noble Foundation in 2004. No known individuals were identified. No associated funerary objects recovered from the site were transferred to the Fernbank Museum.

Based on associated material culture and radiocarbon dating results, the curatorial staff of the Fernbank Museum believes it is reasonable to trace a

relationship of shared group identity between the late prehistoric Mississippian (Irene) Period (A.D. 1350–1580) and the historic Contact (Altamaha) Period (A.D. 1580–1700) inhabitants of coastal Georgia and six present-day Indian tribes. These six Indian tribes are the Alabama-Quassarte Tribal Town, Oklahoma; Muscogee (Creek) Nation, Oklahoma; Poarch Band of Creek Indians of Alabama; Seminole Nation of Oklahoma; Seminole Tribe of Florida (Dania, Big Cypress, Brighton, Hollywood & Tampa Reservations); and the Thlopthlocco Tribal Town, Oklahoma. This determination is made on the basis of historical geography, general continuities of material culture, and probable linguistic continuity across the Late Prehistoric/Contact Period boundary, as well as previous NAGPRA determinations for human remains and funerary objects from the Georgia coast.

In 1982–1986, human remains representing 431 individuals were removed from the site of Mission Santa Catalina de Guale (9LI274), Liberty County, GA, during archeological excavations conducted by the American Museum of Natural History under the direction of Dr. Thomas and Dr. Larsen. The human remains were subsequently subjected to bioarcheological study under the direction of Dr. Larsen, working in collaboration with the American Museum of Natural History. After storage for intervals at Northern Illinois University and on St. Catherines Island, most of the human remains were reburied at the site on two occasions. In May 1984, three coffins containing human remains were returned to the cemetery in conjunction with a ceremony to reconsecrate the Catholic church site, conducted by Bishop Raymond Lessard. In April 2000, additional human remains were placed in 26 individual, specially built containers and reburied in the same location, in a ceremony presided over by an ordained Presbyterian minister. The human remains of at least 18 individuals from the mission site are now in possession of the Fernbank Museum. These remains are all teeth that were apparently separated from the reinterred material. No known individuals were identified. No associated funerary objects have been transferred to the Fernbank Museum.

Based on associated material culture and radiocarbon dating results, the curatorial staff of Fernbank Museum believe it is reasonable to trace a relationship of shared group identity between the historic Contact (Altamaha) Period (A.D. 1580–1700) inhabitants of coastal Georgia at mission Santa

Catalina de Guale and six present-day Indian tribes. This determination is made on the basis of historical geography, general continuities of material culture, and probable linguistic continuity across the Late Prehistoric/Contact Period boundary, as well as previous NAGPRA determinations for human remains and funerary objects from the Georgia coast. These six Indian tribes are the Alabama-Quassarte Tribal Town, Oklahoma; Muscogee (Creek) Nation, Oklahoma; Poarch Band of Creek Indians of Alabama; Seminole Nation of Oklahoma; Seminole Tribe of Florida (Dania, Big Cypress, Brighton, Hollywood & Tampa Reservations); and the Thlopthlocco Tribal Town, Oklahoma.

Officials of the Fernbank Museum of Natural History have determined that, pursuant to 25 U.S.C. 3001 (9–10), the human remains described above represent the physical remains of 60 individuals of Native American ancestry. Officials of the Fernbank Museum of Natural History also have determined that, pursuant to 25 U.S.C. 3001 (3)(A), the six objects described above are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony. Lastly, officials of the Fernbank Museum of Natural History have determined that, pursuant to 25 U.S.C. 3001 (2), there is a relationship of shared group identity which can be reasonably traced between the Native American human remains and associated funerary objects and the Alabama-Quassarte Tribal Town, Oklahoma; Muscogee (Creek) Nation, Oklahoma; Poarch Band of Creek Indians of Alabama; Seminole Nation of Oklahoma; Seminole Tribe of Florida (Dania, Big Cypress, Brighton, Hollywood & Tampa Reservations); and the Thlopthlocco Tribal Town, Oklahoma.

Representatives of any other Indian tribe that believes itself to be culturally affiliated with the human remains and associated funerary objects should contact Dennis B. Blanton, Curator – Native American Archaeology, Fernbank Museum of Natural History, 767 Clifton Rd. NE., Atlanta, GA 30307–1221, telephone: (404) 929–6304, before September 21, 2009. Repatriation of the human remains and associated funerary objects to the Alabama-Quassarte Tribal Town, Oklahoma; Muscogee (Creek) Nation, Oklahoma; Poarch Band of Creek Indians of Alabama; Seminole Nation of Oklahoma; Seminole Tribe of Florida (Dania, Big Cypress, Brighton, Hollywood & Tampa Reservations); and the Thlopthlocco Tribal Town,

Oklahoma may proceed after that date if no additional claimants come forward.

The Fernbank Museum of Natural History is responsible for notifying the Alabama-Quassarte Tribal Town, Oklahoma; Muscogee (Creek) Nation, Oklahoma; Poarch Band of Creek Indians of Alabama; Seminole Nation of Oklahoma; Seminole Tribe of Florida (Dania, Big Cypress, Brighton, Hollywood & Tampa Reservations); and the Thlopthlocco Tribal Town, Oklahoma that this notice has been published.

Dated: August 5, 2009.

Sherry Hutt,

Manager, National NAGPRA Program.

[FR Doc. E9–19983 Filed 8–19–09; 8:45 am]

BILLING CODE 4312–50–S

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Inventory Completion: U.S. Department of Defense, Army Corps of Engineers, Walla Walla District, Walla Walla, WA and Museum of Anthropology, Washington State University, Pullman, WA

AGENCY: National Park Service, Interior.

ACTION: Notice.

Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains and associated funerary objects in the control of the U.S. Department of Defense, Army Corps of Engineers, Walla Walla District, Walla Walla, WA, and in the physical custody of the Museum of Anthropology, Washington State University, Pullman, WA. The human remains and associated funerary objects were removed from the Marmes Rockshelter (45FR50) in Franklin County, WA.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003 (d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains and associated funerary objects. The National Park Service is not responsible for the determinations in this notice.

A detailed assessment of the human remains was made by the U.S. Department of Defense, Army Corps of Engineers professional staff in consultation with representatives of the Confederated Tribes of the Colville Reservation, Washington; Confederated

Tribes of the Umatilla Indian Reservation, Oregon; Confederated Tribes and Bands of the Yakama Nation, Washington; Nez Perce Tribe, Idaho; and the Wanapum Band, a non-Federally recognized Indian group.

In 1962, 1963, 1964, and 1968, human remains representing a minimum of 45 individuals were removed from the Marmes Rockshelter (45FR50) in Franklin County, WA. The Marmes Rockshelter was excavated between 1962 and 1964 by Washington State University under contract with the National Park Service. In 1968, Washington State University conducted additional excavations under contract with the U.S. Army Corps of Engineers. Some human remains were encased in plaster casts during the excavations and transported to the laboratory at Washington State University.

Excavations of the plaster casts were conducted at the laboratory until 1974. Material from all excavations is curated at Washington State University. During the excavations and subsequent analyses of the human remains from the Marmes Rockshelter site, human remains were given burial numbers or other designations including Burials 1 to 12, Burials 14 to 22, Small Unnumbered Cast, Rice Burial 05, MCX 1, Feature 64–6, and non-cremation rockshelter remains. No known individuals were identified. The 2,047 associated funerary objects (i.e., 2,020 counted items and 27 lots of items) are 2 antler pieces; 8 bird bones; 49 fish bones; 752 mammal bones; 1 lot other bones; 13 other bones; 9 other modified bone/antler; 1 antler pendant; 1 basalt biface; 1 chert biface; 1 chert/cryptocrystalline biface; 1 obsidian biface; 1 basalt lanceolate point; 8 pieces of blocky basalt shatter; 10 pieces of blocky chert shatter; 31 pieces of blocky chert/cryptocrystalline shatter; 4 pieces of blocky obsidian shatter; 2 pieces of other stone blocky shatter; 1 basalt cobble core; 4 basalt cobble cores with no cutting edge; 1 other stone cobble core with cutting edge; 3 cobble spalls; 2 basalt cobble spalls with retouch; 1 basalt core; 1 chert core; 2 chert/cryptocrystalline cores; 1 chert endscraper; 3 chert/cryptocrystalline endscrapers; 43 pieces basalt flake debitage; 4 pieces of chert flake debitage; 45 pieces of chert/cryptocrystalline flake debitage; 12 pieces of obsidian flake debitage; 19 pieces of basalt flake shatter; 13 pieces of chert flake shatter; 42 pieces of chert or other cryptocrystalline flake shatter; 78 pieces of chert/cryptocrystalline shatter; 30 pieces of obsidian flake shatter; 1 piece quartzite flake shatter; 2

chert/cryptocrystalline flakes with bimarginal retouch; 2 chert flakes with retouch; 1 basalt flake with unimarginal retouch; 8 chert/cryptocrystalline flakes with unimarginal retouch; 3 obsidian flakes with unimarginal retouch; 1 chert/cryptocrystalline hafted drill; 7 basalt other bifaces; 2 chert/cryptocrystalline other bifaces; 5 basalt point tip or midsections; 10 basalt points; 2 chert points; 10 chert/cryptocrystalline points; 1 obsidian point; 1 chert point tip or midsection; 1 chert/cryptocrystalline point tip or midsection; 1 chert/cryptocrystalline lanceolate point; 1 abrader; 1 basalt groundstone mortar; 1 atlatl ground stone; 1 basalt other groundstone; 1 atlatl weight; 1 graphite bead; 1 stone ornament; 2 pieces of metal; 1 nail; 1 lot metal; 1 piece wood of possible arrow shaft; 125 faunal bone fragments; 7 faunal teeth; 1 lot mammal bone; 1 beaver tooth; 2 bear teeth; 4 rocks; 2 choke cherry pits; 1 mat; 32 other organic pieces (including plant); 4 pieces of wood; 23 organic seeds; 1 organic kidney stone?; 1 lot red ochre; 1 lot C14 or charcoal samples; 1 lot charcoal samples; 18 charcoal samples; 1 lot fine screen other samples; 70 pieces of ochre other stone samples; 1 lot of ochre other stone samples; 106 basalt samples; 1 lot other basalt samples; 19 basalt other (including rocks) samples; 1 lot other chert/cryptocrystalline samples; 1 lot other miscellaneous stone samples; 1 lot other other samples; 1 lot other other stone samples; 1 lot other other (including rocks) samples; 1 lot other other sample samples; 1 lot other sample other stone samples; 63 other other stone samples; 8 other other samples; 1 basalt anvil stone; 1 lot other dust with red ochre, bone, shell fragments; 1 basalt edged cobble; 1 lot soil samples; 81 shell beads; 1 lot shell beads; 17 Olivella shell beads; 1 lot snail shell remains; 154 pieces of shell remains; 1 lot Margaretfifera shell remains; 1 lot Gonidea sp. shell remains; 1 lot Pelecypoda shell remains; 9 pieces of snail shell remains; 1 lot Unionacea shell remains; 1 lot shell remains; 1 lot other organic other (including plant); 1 lot other organic other (including plant), seeds; and 3 white stones.

The human remains in Burials 1 through 12, 14 through 22, the small Unnumbered Cast, MCX 1, Rice 05, 64–6, and the non-cremation rockshelter remains were determined to be Native American due to physical traits and the cultural items found with the human remains, which are similar to the materials found in archeological collections and in context with Native

American burials in southeastern Washington.

Archeological evidence found in the Marmes Rockshelter (and in six nearby archeological sites) supports a nearly continuous occupation from the Cascade Phase (8000–4500 BP) to the Harder Phase (2500–500 BP), and provides the most direct physical line of evidence supporting affiliation between an earlier group and a present-day Indian tribe. Geographical and anthropological lines of evidence support the archeological evidence of earlier group habitation in the same geographic location as the historic groups. Oral tradition evidence provided by tribal elders indicates a large Palus village, inhabited by tribal ancestors from time immemorial, was once located near the Marmes Rockshelter. Further, according to tribal elders, these ancestors were mobile, and traveled the landscape to gather resources as well as trade among each other.

Ethnographic documentation indicates that the present-day location of the Marmes Rockshelter in Franklin County, WA, is within the territory occupied historically by the Palus (Palouse) Indians. During the historic period, the Palouse people settled along the Snake River, relied on fish, game and root resources for subsistence, shared their resource areas and maintained extensive kinship connections with other groups in the area, and had limited political integration until the adoption of the horse (Walker 1998). These characteristics are common to the greater Plateau cultural communities surrounding the Palouse territory including the Nez Perce, Cayuse, Walla Walla, Yakama, and Wanapum groups. Moreover, the information provided during consultation by representatives of the Confederated Tribes of the Colville Reservation, Washington; Confederated Tribes of the Umatilla Indian Reservation, Oregon; Confederated Tribes and Bands of the Yakama Nation, Washington; Nez Perce Tribe, Idaho; and the Wanapum Band, a non-Federally recognized Indian group, substantiates their cultural affiliation with each other and with the earlier group represented at the Marmes Rockshelter. The descendants of these Plateau communities of southeastern Washington, now widely dispersed, are members of the Confederated Tribes of the Colville Reservation, Washington; Confederated Tribes of the Umatilla Indian Reservation, Oregon; Confederated Tribes and Bands of the Yakama Nation, Washington; Nez Perce

Tribe, Idaho; and the Wanapum Band, a non-Federally recognized Indian group.

Officials of the U.S. Department of Defense, Army Corps of Engineers, Walla Walla District have determined that, pursuant to 25 U.S.C. 3001 (9–10), the human remains described above represent the physical remains of 45 individuals of Native American ancestry. Officials of the U.S. Department of Defense, Army Corps of Engineers, Walla Walla District also have determined that, pursuant to 25 U.S.C. 3001 (3)(A), the 2,047 objects (2,020 individual counted items and 27 lots of items) described above are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony.

Furthermore, officials of the U.S. Department of Defense, Army Corps of Engineers, Walla Walla District have determined that, pursuant to 25 U.S.C. 3001 (2), there is a relationship of shared group identity that can be reasonably traced between the Native American human remains and associated funerary objects and the Confederated Tribes of the Colville Reservation, Washington; Confederated Tribes of the Umatilla Indian Reservation, Oregon; Confederated Tribes and Bands of the Yakama Nation, Washington; and Nez Perce Tribe, Idaho. Lastly, officials of the U.S. Department of Defense, Army Corps of Engineers, Walla Walla District have determined that there is a cultural relationship between the Native American human remains and associated funerary objects and the Wanapum Band, a non-Federally recognized Indian group.

Representatives of any other Indian tribe that believes itself to be culturally affiliated with the human remains and/or associated funerary objects should contact Lieutenant Colonel Michael Farrell, U.S. Department of Defense, Army Corps of Engineers, Walla Walla District, 201 North Third Avenue, Walla Walla, WA 99362–1876, telephone (509) 527–7700, before September 21, 2009. Repatriation of the human remains and associated funerary objects to the Confederated Tribes of the Colville Reservation, Washington; Confederated Tribes of the Umatilla Indian Reservation, Oregon; Confederated Tribes and Bands of the Yakama Nation, Washington; and Nez Perce Tribe, Idaho may proceed after that date if no additional claimants come forward. The U.S. Department of Defense, Army Corps of Engineers, Walla Walla District acknowledges the participation of the Wanapum Band, a non-Federally recognized Indian group, in the transfer

of the human remains and associated funerary objects to the Federally-recognized Indian tribes.

The U.S. Department of Defense, Army Corps of Engineers, Walla Walla District is responsible for notifying the Confederated Tribes of the Colville Reservation, Washington; Confederated Tribes of the Umatilla Indian Reservation, Oregon; Confederated Tribes and Bands of the Yakama Nation, Washington; Nez Perce Tribe, Idaho; and the Wanapum Band, a non-Federally recognized Indian group, that this notice has been published.

Dated: July 29, 2009.

Sherry Hutt,

Manager, National NAGPRA Program.

[FR Doc. E9-20039 Filed 8-19-09; 8:45 am]

BILLING CODE 4312-50-S

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Inventory Completion: Alaska State Office, Bureau of Land Management, Anchorage, AK; Alutiiq Museum and Archaeological Repository, Kodiak, AK; and University of Wisconsin Anthropology Department Curation Facility, Madison, WI

AGENCY: National Park Service, Interior.

ACTION: Notice.

Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains under the control of the Alaska State Office, Bureau of Land Management, Anchorage, AK, and in the physical custody of the Alutiiq Museum and Archaeological Repository, Kodiak, AK; Smithsonian Institution, Washington, DC; and the University of Wisconsin Anthropology Department Curation Facility, Madison, WI. The human remains were removed from Sitkalidak Island and Kodiak Island, AK.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003 (d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains. The National Park Service is not responsible for the determinations in this notice.

A detailed assessment of the human remains was made by the Alaska State Office, Bureau of Land Management; Alutiiq Museum and Archaeological

Repository; Smithsonian Institution; and University of Wisconsin Anthropology Department Curation Facility professional staff in consultation with the Native Village of Old Harbor, Old Harbor Native Corporation, and Koniag, Inc.

In 1960, human remains representing a minimum of one individual were removed from the Rolling Bay site (49-KOD-00101) on Sitkalidak Island, AK, by Drs. William Laughlin and J.B. Jorgensen. The human remains are currently at the Alutiiq Museum and Archaeological Repository, Kodiak, AK. No known individual was identified. No associated funerary objects are present.

In 1961, human remains representing a minimum of one individual were removed from the Rolling Bay site (49-KOD-00101) on Sitkalidak Island, AK, during excavations in association with Dr. Donald Clark. The human remains are currently at the Alutiiq Museum and Archaeological Repository, Kodiak, AK. No known individual was identified. No associated funerary objects are present.

During 1960-1962, human remains representing a minimum of 44 individuals were removed from the Rolling Bay site (49-KOD-00101) on Sitkalidak Island, AK, during excavations associated with the now-deceased Dr. William Laughlin. The human remains are currently at the Smithsonian Institution, Washington, DC. No known individuals were identified. No associated funerary objects are present.

All the sets of human remains from the Rolling Bay site presently at the Alutiiq Museum and Archaeological Repository and the Smithsonian Institution had originally been sent, following their excavation, to the University of Wisconsin's Department of Anthropology for study and storage, under the care of Dr. William Laughlin. When Dr. Laughlin later moved to the University of Connecticut at Storrs, he took two sets of human remains; the other 44 individuals remained at the University of Wisconsin's Department of Anthropology. In the late 1990s, following Dr. Laughlin's retirement, the two sets of human remains then at the University of Connecticut at Storrs were transported to the Museum of the Aleutians in Unalaska, AK, where they were deposited in the care of archeologist Dr. Richard Knecht. In approximately 2000, the human remains were sent by Dr. Knecht to the Alutiiq Museum and Archaeological Repository, where they are currently stored. In 2006, the 44 individuals at the University of Wisconsin's Department of Anthropology were sent to the

Smithsonian Institution, where they are currently stored.

In 1963, human remains representing one individual were removed from the Sitkalidak site (49-KOD-00121) located along Ocean Bay, on Sitkalidak Island, AK, during excavations by archeologists thought to be associated with the University of Wisconsin. The human remains are currently in the University of Wisconsin Department of Anthropology Curation Facility. No known individual was identified. No associated funerary objects are present.

In 1964 or 1965, human remains representing one individual were removed from the Saltery Cove 1 site (49-KOD-00062), in the Saltery Cove region of Kodiak Island, AK, during excavations by archeologists thought to be associated with the University of Wisconsin. The human remains are currently in the University of Wisconsin Department of Anthropology Curation Facility. No known individual was identified. No associated funerary objects are present.

Both sets of human remains from the Sitkalidak and Saltery Cove sites presently housed at the University of Wisconsin Anthropology Department Curation Facility had originally been sent, following their excavation, to the University of Wisconsin Department of Anthropology for study and storage. They were under the care of Dr. William Laughlin, and they remained at this facility following his death. In 2008, the human remains were identified and inventoried.

The Rolling Bay site lies on the coast of Sitkalidak Island on the southeastern shores of Alaska's Kodiak archipelago. Drs. Laughlin and Jorgensen visited the site in 1960, and collected eroding human skeletal remains from prehistoric deposits. Additional archeological work followed in 1961-1962. Later excavations by Dr. Clark, showed that the deposits at the Rolling Bay site belong to the Koniag Tradition, the cultural ancestor of modern Alutiiqs.

Based on their provenience and condition, the human remains from the Rolling Bay, the Sitkalidak, and Saltery Cove sites are all determined to be Native American, and ancestors of the citizens and shareholders of the Village of Old Harbor, Old Harbor Native Corporation, and Koniag, Inc.

Officials of the Alaska State Office, Bureau of Land Management; Alutiiq Museum and Archaeological Repository; and the University of Wisconsin Department of Anthropology Curation Facility have determined that, pursuant to 25 U.S.C. 3001 (9-10), the human remains described above represent the physical remains of a minimum of 48

individuals of Native American ancestry. Officials of the Alaska State Office, Bureau of Land Management; Alutiiq Museum and Archaeological Repository; and the University of Wisconsin Department of Anthropology Curation Facility also have determined that, pursuant to 25 U.S.C. 3001 (2), there is a relationship of shared group identity that can be reasonably traced between the Native American human remains and the Village of Old Harbor, Old Harbor Native Corporation, and Koniag, Inc.

Representatives of any other Indian tribe that believes itself to be culturally affiliated with the human remains should contact Dr. Robert E. King, Alaska State NAGPRA Coordinator, Bureau of Land Management, 222 W. 7th Ave., Box 13, Anchorage, AK 99513-7599, telephone (907) 271-5510, before September 21, 2009. Repatriation of the human remains to the Village of Old Harbor, Old Harbor Native Corporation, or Koniag, Inc. may proceed after that date if no additional claimants come forward.

The Alaska State Office, Bureau of Land Management is responsible for notifying the Village of Old Harbor, the Old Harbor Native Corporation, and Koniag, Inc. that this notice has been published.

Dated: August 7, 2009.

Sherry Hutt,

Manager, National NAGPRA Program.

[FR Doc. E9-19977 Filed 8-19-09; 8:45 am]

BILLING CODE 4312-50-S

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Inventory Completion: The Public Museum, Grand Rapids, MI

AGENCY: National Park Service, Interior.

ACTION: Notice.

Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains and associated funerary objects in the possession of The Public Museum, Grand Rapids, MI. The human remains and associated funerary objects were removed from Kent County, MI.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003 (d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains and

associated funerary objects. The National Park Service is not responsible for the determinations in this notice.

A detailed assessment of the human remains and associated funerary objects was made by The Public Museum's professional staff in consultation with the Grand Traverse Band of Ottawa and Chippewa Indians, Michigan; Little River Band of Ottawa Indians, Michigan; and Little Traverse Bay Bands of Odawa Indians, Michigan.

At an unknown date, human remains representing a minimum of one individual were removed from an unknown location in Kent County, MI. On June 16, 1962, the human remains were obtained by Ruth Herrick from Bert Chaffee. In 1974, the human remains were obtained by The Public Museum from Ruth Herrick by bequest. No known individual was identified. The three associated funerary objects are one strike-a-light, one fish vertebrae, and one perforated bone.

The context from which the human remains and associated funerary objects were removed is unknown.

Based on artifact typology, the human remains and associated funerary objects date to the 18th century. The objects were found stored together with human remains and are consistent with other 18th century funerary objects found in Kent County during the historic occupation of the Ottawa.

At an unknown date, human remains representing a minimum of four individuals were removed from the N. Franklin Avenue site (20KT109) in Grandville, Kent County, MI. The site was inadvertently discovered by construction workers and reported by E.V. Gillis in *The Coffinberry News Bulletin* of the Michigan Archaeological Society in 1962. In 1963, the human remains were donated to The Public Museum by the City of Grandville. No known individuals were identified. The 23 associated funerary objects are 1 wooden spoon, 1 wooden spoon fragment, 1 metal knife, 1 iron fragment, 1 metal razor, 1 metal handle fragment, 1 strike-a-light, 1 copper tube bead, 1 clam shell, 1 set of bird bones, 1 set of iron fragments with fabric adhering, 1 iron axe, 1 set of nail fragments, 1 birch bark basket fragment, 1 copper mirror frame, 1 copper pot with fabric adhering, 1 fabric fragment, 1 glass fragment, 4 copper kettles, and 1 set of brooch pins.

Based on artifact typology, the human remains and associated funerary objects date to the 18th and 19th centuries.

At an unknown date, human remains representing a minimum of one individual were removed from underneath Cook's bridge over the Thornapple River at Cascade Township

site (20KT18), Kent County, MI. In 1925, the human remains were donated to The Public Museum by W.H. Patterson. No known individual was identified. No associated funerary objects are present.

Physical examination identified the human remains as Native American. Funerary objects found at the site are consistent with those objects frequently found in Native American burials from the 18th century, although none of the funerary objects are present in the museum's collection.

At an unknown date, human remains representing a minimum of one individual were removed from 185 Ottawa (site 20KT109) in Grandville, Kent County, MI. The human remains and associated funerary objects were uncovered by the property owner's children while digging in their yard. In 1949, the human remains were donated to The Public Museum by the property owners, Jan and James Buddingh. No known individual was identified. The 231 associated funerary objects are 1 copper armband, 1 carved antler handle, 1 bone awl, 1 copper thimble, 1 copper kettle, 1 set of iron fragments, 1 set of wood fragments, 1 set of textile fragments, 2 sets of wood fragments with textile adhering, 1 wooden spoon fragment, 209 trade beads, 6 metal earrings, 2 metal rings, 1 metal brooch pin, 1 set of gravels, and 1 set of copper fragments.

Based on artifact typology, the human remains and associated funerary objects date to the 18th and 19th century. The associated funerary objects are consistent with other funerary objects found in the area of Grandville, MI, during the historic occupation of the Ottawa.

At an unknown date, human remains representing a minimum of one individual were removed from the Warner farm site (20KT20), located on the Grand River, west of Ada and on the north side of M-21, Kent County, MI. In 1974, The Public Museum obtained the human remains from Ruth Herrick by bequest. No known individual was identified. Stored with the individual were associated funerary objects that are in groupings of uncounted fragments. The seven associated funerary object groupings are two lots of pottery shard fragments, three lots of animal bone fragments, one lot of fire cracked rock fragments, and one lot of other stone fragments.

The human remains and associated funerary objects from the Warner farm site date from the Late Woodland period to A.D. 1850. Based on the site's geographical location at the confluence of the Grand and Thornapple Rivers, archeological evidence indicates this

site was intermittently occupied from prehistoric times into the historic era.

All of the human remains and associated funerary objects described above from the Kent County sites are, by a preponderance of the evidence, culturally affiliated with the present-day Federally-recognized Little River Band of Ottawa Indians, Michigan, whose ancestors include the Grand River Ottawa Bands. The historic occupation of Kent County, MI, by the Little River Band of Ottawa Indians is well documented.

Officials of The Public Museum have determined that, pursuant to 25 U.S.C. 3001 (9–10), the human remains described above represent the physical remains of eight individuals of Native American ancestry. Officials of The Public Museum also have determined that, pursuant to 25 U.S.C. 3001 (3)(A), the 264 associated funerary objects described above are reasonably believed to have been placed with or near individual remains at the time of death or later as part of the death rite or ceremony. Lastly, officials of The Public Museum have determined that, pursuant to 25 U.S.C. 3001 (2), there is a relationship of shared group identity that can be reasonably traced between the Native American human remains and associated funerary objects and the Little River Band of Ottawa Indians, Michigan.

Representatives of any other Indian tribe that believes itself to be culturally affiliated with the human remains and associated funerary objects should contact Marilyn Merdzinski, Director of Collections and Preservation, The Public Museum, 272 Pearl St. NW., Grand Rapids, MI 49504, telephone (616) 456–3521, before September 21, 2009. Repatriation of the human remains and associated funerary objects to the Little River Band of Ottawa Indians, Michigan may proceed after that date if no additional claimants come forward.

The Public Museum is responsible for notifying the Grand Traverse Band of Ottawa and Chippewa Indians, Michigan; Little River Band of Ottawa Indians, Michigan; and Little Traverse Bay Bands of Odawa Indians, Michigan that this notice has been published.

Dated: July 24, 2009.

Sherry Hutt,

Manager, National NAGPRA Program.

[FR Doc. E9–19974 Filed 8–19–09; 8:45 am]

BILLING CODE 4312–50–S

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Inventory Completion: U.S. Department of the Interior, Bureau of Indian Affairs, Washington, DC and New York University College of Dentistry, New York, NY

AGENCY: National Park Service, Interior.

ACTION: Notice.

Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains in the control of the U.S. Department of the Interior, Bureau of Indian Affairs, Washington, DC, and in the physical custody of the New York University College of Dentistry, New York, NY. The human remains were removed from Hawikuh, Cibola County, NM.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003 (d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains. The National Park Service is not responsible for the determinations in this notice.

A detailed assessment of the human remains was made by the Bureau of Indian Affairs and New York University College of Dentistry professional staff in consultation with representatives of the Zuni Tribe of the Zuni Reservation, New Mexico.

In February 1921, human remains representing a minimum of one individual were removed from "Burial 1263" at Hawikuh, Cibola County, NM, during legally permitted excavations by the Museum of the American Indian, Heye Foundation. At the time of excavation, the site of Hawikuh was located on Zuni tribal lands. In 1921, the human remains were accessioned into the collections of the Museum of the American Indian. In 1956, the Museum of the American Indian transferred the human remains to Dr. Theodore Kazamiroff, New York University College of Dentistry. No known individual was identified. No associated funerary objects are present.

Records identify the human remains as "Burial 1263" from Hawikuh. Cranial morphology suggests that the human remains are consistent with an individual of Native American ancestry. Consultation evidence, historic documents, and archeological data indicate Hawikuh was a Zuni settlement

occupied from the 14th to 17th centuries. Zuni traditions identify the region around Hawikuh as their ancestral territory. Archeological data suggest that the site was inhabited since circa A.D. 1300. The first historic records of Hawikuh were made by the Spanish in 1536; over the next 150 years the Spanish documented their visits and missions at Hawikuh, which they identified as one of the seven cities of Cibola. After the Pueblo Revolt of 1680, the Zuni resettled at the location of the current Zuni Pueblo. Oral tradition and historic records describe both the revolt and the subsequent aggregation of Zuni people at the Zuni Pueblo. For a number of years, some Zuni periodically returned to Hawikuh for short stays.

The Spanish granted the land at Hawikuh and other Zuni villages to the Zuni in 1689. The Zuni have remained in the area to the present-day. The present Zuni reservation was first established by Executive Order in 1877, although the boundaries were subsequently modified. The Zuni voted to hold elections under the Indian Reorganization Act in 1934, and adopted a constitution in 1970. Today the Zuni Tribe is recognized as the Zuni Tribe of the Zuni Reservation, New Mexico.

Officials of the Bureau of Indian Affairs and New York University College of Dentistry have determined that, pursuant to 25 U.S.C. 3001 (9–10), the human remains described above represent the physical remains of one individual of Native American ancestry. Officials of the Bureau of Indian Affairs and New York University College of Dentistry also have determined that, pursuant to 25 U.S.C. 3001 (2), there is a relationship of shared group identity that can be reasonably traced between the Native American human remains and the Zuni Tribe of the Zuni Reservation, New Mexico.

Representatives of any other Indian tribe that believes itself to be culturally affiliated with the human remains should contact Dr. Louis Terracio, New York University College of Dentistry, 345 East 24th St., New York, NY 10010, telephone (212) 998–9917, before September 21, 2009. Repatriation of the human remains to the Zuni Tribe of the Zuni Reservation, New Mexico may proceed after that date if no additional claimants come forward.

The New York University College of Dentistry and Bureau of Indian Affairs are responsible for notifying the Zuni Tribe of the Zuni Reservation of New Mexico that this notice has been published.

Dated: July 24, 2009.

Sherry Hutt,

Manager, National NAGPRA Program.

[FR Doc. E9-19964 Filed 8-19-09; 8:45 am]

BILLING CODE 4312-50-S

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Inventory Completion: New York University College of Dentistry, New York, NY

AGENCY: National Park Service, Interior.

ACTION: Notice.

Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains in the possession of the New York University College of Dentistry, New York, NY. The human remains were removed from Cape Nome, Nome County, AK.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003 (d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains. The National Park Service is not responsible for the determinations in this notice.

A detailed assessment of the human remains was made by New York University College of Dentistry professional staff in consultation with representatives of the Nome Eskimo Community.

At an unknown date, human remains representing a minimum of one individual were removed from an unidentified site at Cape Nome, AK, by an unknown individual. By 1924, the human remains were donated to the Museum of the American Indian, Heye Foundation by Mrs. George Heye. In 1956, the human remains were transferred to Dr. Theodore Kazamiroff, New York University College of Dentistry. No known individual was identified. No associated funerary objects are present.

Museum of the American Indian records list the locality of origin as Cape Nome, AK. The human remains are well-preserved and the morphology is consistent with Native American ancestry. There are four cultural phases for the Cape Nome area, the Denbigh Flint Complex, Norton, Birmirk, and Cape Nome phases. Because preservation of human remains is extremely rare for sites in the Cape

Nome region that predate the Cape Nome phase, it is likely that the human remains date to the Cape Nome phase, circa A.D. 1000-1800. The Cape Nome phase corresponds to the Western Thule tradition of the Bering Sea region. In the Western Thule tradition, the people of the Seward Peninsula were highly localized, with differences in their lifeways based on the particular resources available in their territory. Localization may have occurred alongside the development of geopolitical boundaries. Cape Nome was a coastal area with a focus on smaller sea mammals.

Cape Nome was part of the Ayaasaeiarmiut or Cape Nome territory of Inupiaq speakers at the time of Euroamerican contact. Burials at Cape Nome were described by Edward Nelson in the late 19th century. Nelson observed that human remains were placed in wooden boxes that were elevated onto poles. The boxes were exposed to the elements and highly visible to collectors.

Archeological and consultation evidence indicates that the Ayaasaeiarmiut Inupiaq inhabited the Cape Nome area since at least A.D. 1000. Today, the descendants of the people of Cape Nome are represented by the Nome Eskimo Community.

Officials of New York University College of Dentistry have determined that, pursuant to 25 U.S.C. 3001 (9-10), the human remains described above represent the physical remains of one individual of Native American ancestry. Officials of New York University College of Dentistry also have determined that, pursuant to 25 U.S.C. 3001 (2), there is a relationship of shared group identity that can be reasonably traced between the Native American human remains and the Nome Eskimo Community.

Representatives of any other Indian tribe that believes itself to be culturally affiliated with the human remains should contact Dr. Louis Terracio, New York University College of Dentistry, 345 East 24th St., New York, NY 10010, telephone (212) 998-9917, before September 21, 2009. Repatriation of the human remains to the Nome Eskimo Community may proceed after that date if no additional claimants come forward.

The New York University College of Dentistry is responsible for notifying the Nome Eskimo Community that this notice has been published.

Dated: July 24, 2009.

Sherry Hutt,

Manager, National NAGPRA Program.

[FR Doc. E9-19961 Filed 8-19-09; 8:45 am]

BILLING CODE 4312-50-S

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Inventory Completion: The Colorado College, Colorado Springs, CO; Correction

AGENCY: National Park Service, Interior.

ACTION: Notice.

Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains and associated funerary objects under the control of The Colorado College, Colorado Springs, CO. The human remains and associated funerary objects were removed from sites in the southwestern United States and a canyon tributary of Comb Wash, San Juan County, UT.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003 (d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains and associated funerary objects. The National Park Service is not responsible for the determinations in this notice.

This notice corrects the number count of the associated funerary objects in a Notice of Inventory Completion previously published in the **Federal Register** (72 FR 19232-19233, April 14, 2004) from one to two. In the **Federal Register** notice of April 14, 2004, paragraph numbers 6-9 are corrected by substituting the following paragraphs:

Between 1897 and 1898, human remains representing one individual were removed from a cliff ruin in a canyon tributary of Comb Wash, San Juan County, UT, under the auspices of the Lang Expedition of 1897-1898. Prior to 1900, General William Jackson Palmer acquired what became known as the Lang-Bixby Collection which he subsequently transferred to The Colorado College. With the exception of the human remains and funerary objects in direct contact with the human remains, The Colorado College Museum collection, which included the Lang-Bixby Collection, was dispersed through long-term loans primarily to the Colorado Springs Fine Arts Center

(formerly Taylor Museum) and the Denver Museum of Nature and Science (formerly Denver Museum of Natural History) beginning in the late 1960s. The two associated funerary objects are a woven fiber robe or blanket and a piece of buckskin. There is an additional funerary object associated with the human remains, a large ceramic vessel, which is currently missing from the collection.

A physical anthropological assessment of the human remains indicates that the remains are ancestral Puebloan based on the type of cranial deformation. The type and style of associated funerary objects are also ancestral Puebloan. A relationship of shared group identity can reasonably be traced between ancestral Puebloan peoples and modern Puebloan peoples based on oral tradition and scientific studies. A preponderance of evidence supports cultural affiliation with modern Puebloan groups. According to scientific studies and oral tradition, the Navajo share some cultural practices with modern Puebloans, however, there is not a preponderance of evidence to support Navajo cultural affiliation.

Officials of The Colorado College have determined that, pursuant to 25 U.S.C. 3001 (9–10), the human remains described above represent the physical remains of 11 individuals of Native American ancestry. Officials of The Colorado College also have determined that, pursuant to 25 U.S.C. 3001 (3)(A), the two objects described above are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony. Lastly, officials of The Colorado College have determined that, pursuant to 25 U.S.C. 3001 (2), there is a relationship of shared group identity that can be reasonably traced between the Native American human remains and associated funerary objects and the Hopi Tribe of Arizona; Ohkay Owingeh, New Mexico; Pueblo of Acoma, New Mexico; Pueblo of Cochiti, New Mexico; Pueblo of Isleta, New Mexico; Pueblo of Jemez, New Mexico; Pueblo of Laguna, New Mexico; Pueblo of Nambe, New Mexico; Pueblo of Picuris, New Mexico; Pueblo of Pojoaque, New Mexico; Pueblo of San Felipe, New Mexico; Pueblo of San Ildefonso, New Mexico; Pueblo of Santa Ana, New Mexico; Pueblo of Santa Clara, New Mexico; Pueblo of Santo Domingo, New Mexico; Pueblo of Taos, New Mexico; Pueblo of Tesuque, New Mexico; Pueblo of Zia, New Mexico; Ysleta del Sur Pueblo of Texas; and Zuni Tribe of the Zuni Reservation, New Mexico.

Representatives of any other Indian tribe that believes itself to be culturally affiliated with the human remains and associated funerary objects should contact Chris Melcher, Legal Counsel/Director of Business, The Colorado College c/o Jan Bernstein, President, Bernstein & Associates - NAGPRA Consultants, 1041 Lafayette St., Denver, CO 80218, telephone (303) 894-0648, janbernstein@nagpra.info, before September 21, 2009. Repatriation of the human remains and associated funerary objects to the Hopi Tribe of Arizona may proceed after that date if no additional claimants come forward.

The Colorado College is responsible for notifying the Hopi Tribe of Arizona; Navajo Nation, Arizona, New Mexico & Utah; Ohkay Owingeh, New Mexico; Pueblo of Acoma, New Mexico; Pueblo of Cochiti, New Mexico; Pueblo of Isleta, New Mexico; Pueblo of Jemez, New Mexico; Pueblo of Laguna, New Mexico; Pueblo of Nambe, New Mexico; Pueblo of Picuris, New Mexico; Pueblo of Pojoaque, New Mexico; Pueblo of San Felipe, New Mexico; Pueblo of San Ildefonso, New Mexico; Pueblo of Sandia, New Mexico; Pueblo of Santa Ana, New Mexico; Pueblo of Santa Clara, New Mexico; Pueblo of Santo Domingo, New Mexico; Pueblo of Taos, New Mexico; Pueblo of Tesuque, New Mexico; Pueblo of Zia, New Mexico; Ysleta del Sur Pueblo of Texas; and Zuni Tribe of the Zuni Reservation, New Mexico that this notice has been published.

Dated: August 5, 2009.

Sherry Hutt,

Manager, National NAGPRA Program.

[FR Doc. E9-19976 Filed 8-19-09; 8:45 am]

BILLING CODE 4312-50-S

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Inventory Completion: New York University College of Dentistry, New York, NY

AGENCY: National Park Service, Interior.
ACTION: Notice.

Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains in the possession of the New York University College of Dentistry, New York, NY. The human remains were removed from Bronx County, NY.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25

U.S.C. 3003 (d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains. The National Park Service is not responsible for the determinations in this notice.

A detailed assessment of the human remains was made by New York University College of Dentistry professional staff in consultation with representatives of the Delaware Nation of Oklahoma; Delaware Tribe (part of the Cherokee Nation, Oklahoma); and Stockbridge Munsee Community, Wisconsin.

In 1911, human remains representing a minimum of one individual were removed from a grave at Broadway and Isham Streets, Inwood, New York, NY, by Reginald P. Bolton. In 1917, the human remains were accessioned by the Department of Physical Anthropology at the Museum of the American Indian, Heye Foundation. In 1956, the human remains were transferred to Dr. Theodore Kazamiroff, New York University College of Dentistry. No known individual was identified. No associated funerary objects are present.

Museum of the American Indian records identify the locality of origin of the human remains as "Aboriginal burial, Broadway and Isham Streets, New York City." This location is in present-day Inwood, on the island of Manhattan, New York City, Bronx County. The cranial morphology of the human remains is consistent with an individual of Native American ancestry. Objects found at the Broadway and Isham Street location, but not in the museum's collection, suggest that the site dates to the late Late Woodland, Protohistoric or early Historic Periods, A.D. 1400–1650. The Inwood area is documented historically, archeologically and by tribal traditions as the territory of the Munsee Delaware-speaking people since at least the Late Woodland period. Manhattan was largely vacated by the Munsee during the late 17th and early 18th centuries, and the Munsee of Manhattan joined other Munsee communities to their north and west. Some Munsee people became part of the Stockbridge community that eventually settled in Wisconsin. Today, their descendants are members of the Stockbridge Munsee Community, Wisconsin. Other Munsee were integrated into Unami Delaware-speaking groups who moved through the Midwest and/or Texas before settling on reservation land in Oklahoma. Today, these groups are known as the Delaware Nation of Oklahoma and the Delaware Tribe of the Cherokee Nation, Oklahoma.

Consultation evidence supports the identification of the human remains from the Broadway and Isham Streets site as Munsee and their cultural affiliation with the Delaware Nation of Oklahoma; Delaware Tribe of the Cherokee Nation, Oklahoma; and Stockbridge Munsee Community, Wisconsin.

Officials of New York University College of Dentistry have determined that, pursuant to 25 U.S.C. 3001 (9–10), the human remains described above represent the physical remains of one individual of Native American ancestry. Officials of New York University College of Dentistry also have determined that, pursuant to 25 U.S.C. 3001 (2), there is a relationship of shared group identity that can be reasonably traced between the Native American human remains and the Delaware Nation of Oklahoma; Delaware Tribe of the Cherokee Nation, Oklahoma; and Stockbridge Munsee Community, Wisconsin.

Representatives of any other Indian tribe that believes itself to be culturally affiliated with the human remains should contact Dr. Louis Terracio, New York University College of Dentistry, 345 East 24th St., New York, NY 10010, telephone (212) 998–9917, before September 21, 2009. Repatriation of the human remains to the Delaware Nation of Oklahoma; Delaware Tribe of the Cherokee Nation, Oklahoma; and Stockbridge Munsee Community, Wisconsin, may proceed after that date if no additional claimants come forward.

The New York University College of Dentistry is responsible for notifying the Delaware Nation of Oklahoma; Delaware Tribe of the Cherokee Nation, Oklahoma; and Stockbridge Munsee Community, Wisconsin that this notice has been published.

Dated: July 24, 2009.

Sherry Hutt,

Manager, National NAGPRA Program.

[FR Doc. E9–19975 Filed 8–19–09; 8:45 am]

BILLING CODE 4312–50–S

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Inventory Completion: The Public Museum, Grand Rapids, MI

AGENCY: National Park Service, Interior.

ACTION: Notice.

Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the

completion of an inventory of human remains in the possession of The Public Museum, Grand Rapids, MI. The human remains were removed from the vicinity of Santa Barbara, Santa Barbara County, CA.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003 (d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains. The National Park Service is not responsible for the determinations in this notice.

A detailed assessment of the human remains was made by The Public Museum's professional staff in consultation with professional staff of the University of California at Santa Barbara, Santa Barbara, CA, and with the Santa Ynez Band of Chumash Mission Indians of the Santa Ynez Reservation, California.

At an unknown date, human remains representing a minimum of three individuals were removed from the vicinity of Santa Barbara, Santa Barbara County, CA. In June 1917, The Public Museum purchased collections from E.H. Crane that contained these individuals. No known individuals were identified. No associated funerary objects are present.

The human remains consist of the partial crania from two adult individuals and a relatively complete cranium from a third individual. Museum accession records indicate the human remains originated from the Santa Barbara area. There were no associated funerary objects or other records to use as a basis for dating the human remains. It is the expert opinion of Dr. Phil Watson, Anthropologist from the University of California at Santa Barbara, that the human remains are affiliated with the Santa Ynez Tribe of Mission Indians, based on demonstrated cultural continuity for this group in the Santa Barbara area for 6,000 years. Based on the expert opinion and other information supplied by Dr. Watson, as well as tribal consultation evidence, officials of The Public Museum reasonably believe the human remains are Native American and culturally affiliated to the Santa Ynez Band of Chumash Mission Indians of the Santa Ynez Reservation, California.

Officials of The Public Museum have determined that, pursuant to 25 U.S.C. 3001 (9–10), the human remains described above represent the physical remains of three individuals of Native American ancestry. Officials of The Public Museum have also determined that, pursuant to 25 U.S.C. 3001 (2),

there is a relationship of shared group identity that can be reasonably traced between the Native American human remains and the Santa Ynez Band of Chumash Mission Indians of the Santa Ynez Reservation, California.

Representatives of any other Indian tribe that believes itself to be culturally affiliated with the human remains should contact Marilyn Merdzinski, Director of Collections and Preservation, The Public Museum, 272 Pearl St. NW., Grand Rapids, MI 49504, telephone (616) 456–3521, before September 21, 2009. Repatriation of the human remains to the Santa Ynez Band of Chumash Mission Indians of the Santa Ynez Reservation, California may proceed after that date if no additional claimants come forward.

The Public Museum is responsible for notifying the Santa Ynez Band of Chumash Mission Indians of the Santa Ynez Reservation, California that this notice has been published.

Dated: July 9, 2009.

Sherry Hutt,

Manager, National NAGPRA Program.

[FR Doc. E9–19979 Filed 8–19–09; 8:45 am]

BILLING CODE 4312–50–S

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Inventory Completion: Department of Anthropology Museum at the University of California, Davis, Davis, CA

AGENCY: National Park Service, Interior.

ACTION: Notice.

Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains in the possession of the Department of Anthropology Museum at the University of California, Davis, Davis, CA. The human remains were removed from Sonoma County, CA.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003 (d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains. The National Park Service is not responsible for the determinations in this notice.

A detailed assessment of the human remains was made by the Department of Anthropology Museum at the University of California, Davis professional staff in consultation with representatives of the

Big Valley Band of Pomo Indians of the Big Valley Rancheria, California; Cahto Indian Tribe of the Laytonville Rancheria, California; Cloverdale Rancheria of Pomo Indians of California; Coyote Valley Band of Pomo Indians of California; Dry Creek Rancheria of Pomo Indians of California; Elem Indian Colony of Pomo Indians of the Sulphur Bank Rancheria, California; Federated Indians of Graton Rancheria, California; Guidiville Rancheria of California; Habematolel Pomo of Upper Lake, California; Hopland Band of Pomo Indians of the Hopland Rancheria, California; Kashia Band of Pomo Indians of the Stewarts Point Rancheria, California; Klamath Tribes, Oregon; Lower Lake Rancheria, California; Lytton Rancheria of California; Manchester Band of Pomo Indians of the Manchester-Point Arena Rancheria, California; Middletown Rancheria of Pomo Indians of California; Pinoleville Pomo Nation, California; Potter Valley Tribe, California; Redding Rancheria, California; Redwood Valley Rancheria of Pomo Indians of California; Robinson Rancheria of Pomo Indians of California; Round Valley Indian Tribes of the Round Valley Reservation, California; Scotts Valley Band of Pomo Indians of California; and Sherwood Valley Rancheria of Pomo Indians of California.

In 1987, human remains representing a minimum of two individuals were removed from CA-SON-861 in Sonoma County, CA, under the direction of Dr. D.L. True, Professor of Anthropology at the University of California, Davis with permission of the private land owner. No known individuals were identified. No associated funerary objects are present.

Based upon the site characteristics, the human remains described above from Sonoma County are determined to be of Native American ancestry. Although no associated funerary objects accompanied the human remains, the predominance of clam shell disk beads and clam shell disk bead manufacturing tools and debris in the assemblage indicates that CA-SON-861 was occupied primarily during Phase II of the Late Period, or approximately A.D. 1500 to Historic times. Archeological and linguistic evidence indicates that Pomo people have occupied the area since at least Phase I of the Late Period or A.D. 1000. Based on geographical location and age of the archeological deposit, the human remains are most likely culturally affiliated with descendants of the Pomo. The modern-day representatives of the Pomo are the Big Valley Band of Pomo Indians of the Big Valley Rancheria, California; Cahto Indian Tribe of the Laytonville

Rancheria, California; Cloverdale Rancheria of Pomo Indians of California; Coyote Valley Band of Pomo Indians of California; Dry Creek Rancheria of Pomo Indians of California; Elem Indian Colony of Pomo Indians of the Sulphur Bank Rancheria, California; Federated Indians of Graton Rancheria, California; Guidiville Rancheria of California; Habematolel Pomo of Upper Lake, California; Hopland Band of Pomo Indians of the Hopland Rancheria, California; Kashia Band of Pomo Indians of the Stewarts Point Rancheria, California; Lower Lake Rancheria, California; Lytton Rancheria of California; Manchester Band of Pomo Indians of the Manchester-Point Arena Rancheria, California; Middletown Rancheria of Pomo Indians of California; Pinoleville Pomo Nation, California; Potter Valley Tribe, California; Redding Rancheria, California; Redwood Valley Rancheria of Pomo Indians of California; Robinson Rancheria of Pomo Indians of California; Round Valley Indian Tribes of the Round Valley Reservation, California; Scotts Valley Band of Pomo Indians of California; and Sherwood Valley Rancheria of Pomo Indians of California.

Officials of the Department of Anthropology Museum at the University of California, Davis have determined that, pursuant to 25 U.S.C. 3001 (9-10), the human remains described above represent the physical remains of at least two individuals of Native American ancestry. Officials of the Department of Anthropology Museum at the University of California, Davis also have determined that, pursuant to 25 U.S.C. 3001 (2), there is a relationship of shared group identity that can be reasonably traced between the Native American human remains and the Big Valley Rancheria, California; Cahto Indian Tribe of the Laytonville Rancheria, California; Cloverdale Rancheria of Pomo Indians of California; Coyote Valley Band of Pomo Indians of California; Dry Creek Rancheria of Pomo Indians of California; Elem Indian Colony of Pomo Indians of the Sulphur Bank Rancheria, California; Federated Indians of Graton Rancheria, California; Guidiville Rancheria of California; Habematolel Pomo of Upper Lake, California; Hopland Band of Pomo Indians of the Hopland Rancheria, California; Kashia Band of Pomo Indians of the Stewarts Point Rancheria, California; Lower Lake Rancheria, California; Lytton Rancheria of California; Manchester Band of Pomo Indians of the Manchester-Point Arena Rancheria, California; Middletown Rancheria of Pomo Indians of California;

Pinoleville Pomo Nation, California; Potter Valley Tribe, California; Redding Rancheria, California; Redwood Valley Rancheria of Pomo Indians of California; Robinson Rancheria of Pomo Indians of California; Round Valley Indian Tribes of the Round Valley Reservation, California; Scotts Valley Band of Pomo Indians of California; and Sherwood Valley Rancheria of Pomo Indians of California.

Representatives of any other Indian tribe that believes itself to be culturally affiliated with the human remains should contact Elizabeth Guerra, NAGPRA Coordinator, Department of Anthropology Museum, 330 Young Hall, One Shields Ave., University of California, Davis, CA 95616, telephone (530) 754-6280, before September 21, 2009. Repatriation of the human remains to the Big Valley Rancheria, California; Cahto Indian Tribe of the Laytonville Rancheria, California; Cloverdale Rancheria of Pomo Indians of California; Coyote Valley Band of Pomo Indians of California; Dry Creek Rancheria of Pomo Indians of California; Elem Indian Colony of Pomo Indians of the Sulphur Bank Rancheria, California; Federated Indians of Graton Rancheria, California; Guidiville Rancheria of California; Habematolel Pomo of Upper Lake, California; Hopland Band of Pomo Indians of the Hopland Rancheria, California; Kashia Band of Pomo Indians of the Stewarts Point Rancheria, California; Lower Lake Rancheria, California; Lytton Rancheria of California; Manchester Band of Pomo Indians of the Manchester-Point Arena Rancheria, California; Middletown Rancheria of Pomo Indians of California; Pinoleville Pomo Nation, California; Potter Valley Tribe, California; Redding Rancheria, California; Redwood Valley Rancheria of Pomo Indians of California; Robinson Rancheria of Pomo Indians of California; Round Valley Indian Tribes of the Round Valley Reservation, California; Scotts Valley Band of Pomo Indians of California; and Sherwood Valley Rancheria of Pomo Indians of California may proceed after that date if no additional claimants come forward.

The Department of Anthropology Museum at the University of California, Davis is responsible for notifying the Big Valley Rancheria, California; Cahto Indian Tribe of the Laytonville Rancheria, California; Cloverdale Rancheria of Pomo Indians of California; Coyote Valley Band of Pomo Indians of California; Dry Creek Rancheria of Pomo Indians of California; Elem Indian Colony of Pomo Indians of the Sulphur Bank Rancheria, California; Federated Indians of Graton Rancheria, California; Guidiville Rancheria of California;

Habematolel Pomo of Upper Lake, California; Hopland Band of Pomo Indians of the Hopland Rancheria, California; Kashia Band of Pomo Indians of the Stewarts Point Rancheria, California; Klamath Tribes, Oregon; Lower Lake Rancheria, California; Lytton Rancheria of California; Manchester Band of Pomo Indians of the Manchester-Point Arena Rancheria, California; Middletown Rancheria of Pomo Indians of California; Pinoleville Pomo Nation, California; Potter Valley Tribe, California; Redding Rancheria, California; Redwood Valley Rancheria of Pomo Indians of California; Robinson Rancheria of Pomo Indians of California; Round Valley Indian Tribes of the Round Valley Reservation, California; Scotts Valley Band of Pomo Indians of California; and Sherwood Valley Rancheria of Pomo Indians of California that this notice has been published.

Dated: July 9, 2009.

Sherry Hutt,

Manager, National NAGPRA Program.

[FR Doc. E9-19973 Filed 8-19-09; 8:45 am]

BILLING CODE 4312-50-S

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLUT920-09-L1320000-EL000, UTU-87084]

Notice of Invitation to Participate in Coal Exploration License, Utah

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of invitation to participate in coal exploration license.

SUMMARY: All interested parties are hereby invited to participate with Ark Land Company on a pro rata cost sharing basis in its program for the exploration of coal deposits owned by the United States of America. The exploration program is fully described and is being conducted pursuant to an exploration plan approved by the Bureau of Land Management (BLM). The plan may be modified to accommodate the legitimate exploration needs of persons seeking to participate.

DATES: Any party electing to participate in this exploration program must send written notice to the Ark Land Company and the BLM, as provided in the **ADDRESSES** section below, which must be received by September 21, 2009.

ADDRESSES: Copies of the exploration plan and license (serialized under the number of UTU 87084) are available for review during normal business hours in the public room of the BLM State Office,

440 West 200 South, Suite 500, Salt Lake City, Utah. The written notice to participate in the exploration program should be sent to both the BLM, Utah State Office, P.O. Box 45155, Salt Lake City, Utah 84145, and to Mark Bunnell, Senior Geologist, Ark Land Company, c/o Canyon Fuel Co., LLC, Skyline Mines, HC35, Box 380, Helper, Utah 84526.

SUPPLEMENTARY INFORMATION: Pursuant to section 2(b) of the Mineral Leasing Act of 1920, as amended by section 4 of the Federal Coal Leasing Amendments Act of 1976, 90 Stat. 1083, 30 U.S.C. 201(b), and to the regulations adopted as 43 CFR part 3410, all interested parties are hereby invited to participate with Ark Land Company on a pro rata cost sharing basis in its program for the exploration of coal deposits owned by the United States of America in the following-described lands in Carbon County, Utah:

T. 12 S., R. 6 E., SLM, Utah

Sec. 26, lots 1-4, N $\frac{1}{2}$ S $\frac{1}{2}$, SW $\frac{1}{4}$ SW $\frac{1}{4}$.

Containing 365.72 acres, more or less.

All of the coal in the above-described land consists of unleased Federal coal within the Uinta-Southwestern Utah Known Coal Region. This coal exploration license will be issued by the Bureau of Land Management. This exploration program will obtain coal data to supplement data from adjacent coal development. This notice of invitation to participate was published in *The Sun Advocate*, once each week for two consecutive weeks beginning February 17, 2009 and in the **Federal Register**.

The foregoing is published in the **Federal Register** pursuant to 43 CFR 3410.2-1(c)(1).

Selma Sierra,

State Director.

[FR Doc. E9-19954 Filed 8-19-09; 8:45 am]

BILLING CODE 4310-DQ-P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLAZ9120000 L12200000 AL0000 6100.241A0]

State of Arizona Resource Advisory Council Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Arizona Resource Advisory Council Meeting.

SUMMARY: In accordance with the Federal Land Policy and Management Act of 1976 and the Federal Advisory

Committee Act of 1972, the U.S. Department of the Interior, Bureau of Land Management (BLM), Arizona Resource Advisory Council (RAC), will meet on September 17, 2009, at the Four Points By Sheraton located at 10220 North Metro Parkway East in Phoenix from 8 a.m. until 4:30 p.m. Morning agenda items include: BLM State Director's update on statewide issues; update on BLM's Four-Tracks to Solar Energy Development in Arizona, and a presentation on the Restoration Design Energy Project; discussion and approval of the RAC Annual Work Plan modifications pertaining to the BLM Arizona strategies and priorities; update on the Gila Unit Travel Management Plan process; RAC questions on BLM District Managers' Reports; and reports by RAC working groups. A public comment period will be provided at 11:30 a.m. on September 17, 2009, for any interested publics who wish to address the Council on BLM programs and business.

Under the Federal Lands Recreation Enhancement Act, the RAC has been designated as the RRAC, and has the authority to review all BLM and Forest Service (FS) recreation fee proposals in Arizona. The afternoon meeting agenda on September 17 will include a brief review and discussion of the Recreation Enhancement Act (REA) Working Group Report, and one BLM fee proposal in Arizona. The fee proposal described below was presented at the June 25, RAC meeting. However, it was not voted on because the RAC lacked a quorum.

The BLM Kingman Field Office is proposing to increase fees for use of its recreation facilities beginning October 1, 2009. The fee sites and proposed changes are: (1) Burro Creek Individual Sites (\$10 to \$14), Burro Creek Group Site (\$30 to \$50), Wild Cow Springs Individual Sites (\$5 to \$8), Wild Cow Springs Group Site (\$15 to \$20), and Windy Point Individual Sites (\$4 to \$8). The purpose of the BLM fee increase is to continue maintenance and improve its campground facilities.

Following the BLM proposal, the RRAC will open the meeting to public comments on the fee proposal. After completing their RRAC business, the BLM RAC will reconvene to provide recommendations to the RAC Designated Federal Official on the fee proposal and discuss future RAC meetings and locations.

DATES: *Effective Date:* August 14, 2009.

FOR FURTHER INFORMATION CONTACT: Deborah Stevens, Bureau of Land Management, Arizona State Office, One North Central Avenue, Suite 800,

Phoenix, Arizona 85004-4427, 602-417-9504.

Helen M. Hankins,

Arizona Associate State Director.

[FR Doc. E9-20052 Filed 8-19-09; 8:45 am]

BILLING CODE 4310-32-P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[MT-060-01-1020-PG]

Notice of Public Meeting; Central Montana Resource Advisory Council

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of public meeting.

SUMMARY: In accordance with the Federal Land Policy and Management Act and the Federal Advisory Committee Act of 1972, the U.S. Department of the Interior, Bureau of Land Management (BLM) Central Montana Resource Advisory Council (RAC) will meet as indicated below.

DATES: The meetings will be held September 15 & 16, 2009.

The meetings will be in the Best Western Great Northern Inn (1345 1st Street) in Havre, Montana.

The September 15 meeting will begin at 10 a.m. with a one-hour public comment period and will adjourn at 5 p.m.

The September 16 meeting will begin at 8 a.m. with a 30-minute public comment period and will adjourn at 12:15 p.m.

SUPPLEMENTARY INFORMATION: This 15-member council advises the Secretary of the Interior on a variety of management issues associated with public land management in Montana. During these meetings the council will participate in/discuss/act upon:

The bison initiative;

A review of the 2009 RAC work plan;

An oil and gas stakeholder presentation;

An update of the HiLine Resource Management Plan;

Field managers' updates;

A discussion of future RAC projects; and

Administrative details (next meeting agenda, location, etc.)

All RAC meetings are open to the public. The public may present written comments to the RAC. Each formal RAC meeting will also have time allocated for hearing public comments. Depending on the number of persons wishing to comment and time available, the time for individual oral comments may be limited.

FOR FURTHER INFORMATION CONTACT: Gary L. "Stan" Benes, Lewistown Field Manager, Lewistown Field Office, P.O. Box 1160, Lewistown, Montana 59457, 406/538-1900.

Dated: August 14, 2009.

Gary L. "Stan" Benes,

Lewistown Field Manager.

[FR Doc. E9-20002 Filed 8-19-09; 8:45 am]

BILLING CODE 4310-SS-P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS-R8-ES-2009-N153; 1112-0000-80221-F2]

Proposed Low Effect Habitat Conservation Plan for the Pahrump Valley General Store Shopping Center, Nye County, NV

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability; receipt of application.

SUMMARY: We, the Fish and Wildlife Service (Service), have received an application from Pahrump 194, LLC (Applicant) for an incidental take permit (permit), under the Endangered Species Act of 1973, as amended. The requested 7-year permit would authorize the incidental take of the threatened desert tortoise (*Gopherus agassizii*) on 60 acres of habitat associated with the development of a shopping center complex within the town limits of Pahrump, Nevada.

We request comments on the permit application and on whether the proposed Habitat Conservation Plan (HCP) qualifies as a "low-effect" HCP, eligible for a categorical exclusion under the National Environmental Policy Act (NEPA) of 1969, as amended. We explain the basis for this possible determination in a draft Environmental Action Statement (EAS), which is also available for public review.

DATES: We must receive comments in writing, no later than 5 p.m. on September 21, 2009.

ADDRESSES: Address comments to Robert D. Williams, State Supervisor, by U.S. mail at Fish and Wildlife Service, Nevada Fish and Wildlife Office, 4701 North Torrey Pines Drive, Las Vegas, NV 89130; or by fax at (702) 515-5231 (for further information and instruction on the reviewing and commenting process, see Public Review and Comment section below).

FOR FURTHER INFORMATION CONTACT: Jeri Krueger, Habitat Conservation Planning Coordinator, Fish and Wildlife Service

(see **ADDRESSES**), telephone (702) 515-5230.

SUPPLEMENTARY INFORMATION:

Availability of Documents

Individuals wishing copies of the application, proposed HCP, or EAS should contact us by telephone (see **FOR FURTHER INFORMATION CONTACT**) or by letter (see **ADDRESSES**). Copies of the subject documents are also available for public inspection during regular business hours at the Nevada Fish and Wildlife Office (see **ADDRESSES**).

Background

Section 9 of the Endangered Species Act of 1973, as amended (Act; 16 U.S.C. 1531 *et seq.*) and Federal regulations prohibit the "take" of a fish or wildlife species listed as endangered or threatened. Take of federally listed fish or wildlife is defined under section 3 of the Act as including to "harass, harm, pursue, hunt, shoot, wound, kill, trap, capture or collect, or to attempt to engage in such conduct" (16 U.S.C. 1538). We may, under limited circumstances, issue permits to authorize "incidental take" of listed species. "Incidental take" is defined by the Act as take that is incidental to, and not the purpose of, carrying out an otherwise lawful activity. Regulations governing permits for threatened species and endangered species, respectively, are at 50 CFR 17.32 and 50 CFR 17.22.

The Applicant is seeking a permit with a 7-year term for the incidental take of the desert tortoise. The Applicant proposes to develop and carry out construction activities on 60 acres of land, associated with the development of the shopping center, improvement of adjacent roadways, installation of utility services, and construction of flood control facilities. The shopping center complex is estimated to occupy 300,000 square feet with a 175,000 square-foot retail anchor tenant. The shopping center will be constructed within the General Commercial Zoning District located on the east side of State Route 160 in the town of Pahrump. Construction is expected to take approximately 3 to 5 years to complete. The Applicant is requesting a 7-year incidental take permit to include the estimated 5-year construction period and an additional 2 years in the event that construction delays occur. The entire 60-acre parcel will be developed, resulting in the incidental take of any desert tortoises that may occupy the site and the permanent loss of 60 acres of desert tortoise habitat.

To minimize and mitigate adverse effects to desert tortoise from the loss of

60 acres of desert tortoise habitat, the Applicant proposes to: (1) Survey for and remove all tortoises from the project site prior to surface disturbing activities; (2) install a temporary fence during construction activities to ensure tortoises do not gain access to the project site and wander into harm's way; (3) ensure trash and food items are disposed of properly to avoid attracting predators; (4) present a desert tortoise awareness program to all construction workers on the site; and (5) provide funding in the amount of \$550 per acre of habitat disturbed to the Desert Tortoise Conservation Center in Clark County, Nevada, to support development and implementation of conservation and recovery actions for the tortoise under the guidance of the Service's Desert Tortoise Recovery Office in Reno, Nevada.

Approval of the HCP may qualify as a categorical exclusion under NEPA, as provided by the Departmental Manual (516 DM 2 Appendix 1 and 516 DM 8) and as a "low-effect" plan as defined in the Habitat Conservation Planning Handbook (Service, November, 1996). Determination of low-effect HCPs is based upon the plan having: Minor or negligible effects on federally listed, proposed, or candidate species and their habitats; minor or negligible effects on other environmental values or resources; and impacts that, considered together with the impacts of other past, present, and reasonably foreseeable similarly situated projects, would not result, over time, in cumulative effects to the environmental values or resources which would be considered significant. If it is found to qualify as a low-effect HCP, further NEPA documentation would not be required.

Public Review and Comment

If you wish to comment on the permit application, draft EAS, or proposed HCP, you may submit your comments to the address listed in the **ADDRESSES** section of this document. We will evaluate this permit application, associated documents, and comments we receive to determine whether the permit application meets the requirements of section 10(a) of the Act and NEPA regulations. Before including your address, phone number, e-mail address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to

do so. If we determine that the requirements are met, we will issue an incidental take permit under section 10(a)(1)(B) of the Act to the Applicant for take of the desert tortoise, incidental to otherwise lawful activities in accordance with the terms of the permit. We will not make our final decision until after the end of the 30-day comment period and will fully consider all comments we receive during the comment period.

Authority

We provide this notice under section 10(c) of the Act and NEPA implementing regulations at 40 CFR 1506.6.

Dated: August 14, 2009.

Robert D. Williams,

State Supervisor, Nevada Fish and Wildlife Office, Reno, Nevada.

[FR Doc. E9-20053 Filed 8-19-09; 8:45 am]

BILLING CODE 4310-55-P

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree; Pursuant to the Clean Water Act and Comprehensive Environmental Response Compensation and Liability Act

Notice is hereby given that on August 14, 2009, a proposed Consent Decree in *United States v. Magellan Ammonia Pipeline et al.*, (D. Kan.), No. 02:09-cv-2425, was lodged with the United States Court for the District of Kansas.

In this action, the United States sought the penalties and injunctive relief pursuant to sections 301 and 311 of the Clean Water Act, 33 U.S.C. 1311, 1321, and section 103 of the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. § 9603, against Magellan Ammonia Pipeline, L.P. ("Magellan"), Enterprise Products Operating, L.P. ("Enterprise"), and Mid-America Pipeline Company, LLC ("MAPCO"). The Complaint alleges that two discharges of anhydrous ammonia occurred in Blair Nebraska on September 27, 2004, and Kingman, Kansas on October 27, 2004, from an ammonia pipeline owned by Defendant Magellan and operated by Defendants Enterprise and MAPCO and that Defendants failed to report the discharges in a timely fashion to the National Response Center.

Pursuant to the proposed Consent Decree, the Settling Defendants will pay to the United States \$3,650,000 in penalties for the discharges and reporting inadequacies. Defendant Magellan, which now both owns and

operates the ammonia pipeline, will undertake injunctive measures aimed at reducing the likelihood of such discharges in the future and at improving its detection of and response to such discharges if they do occur.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and either e-mailed to pubcomment-ees.enrd@usdoj.gov or mailed to P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044-7611, and should refer to *United States v. Magellan Ammonia Pipeline et al.*, (D. Kan.) No. 02:09-cv-2425, D.J. Ref. 90-5-1-1-06074/2.

During the public comment period, the Consent Decree may be examined at the Office of the United States Attorney, District of Kansas, 500 State Avenue, Suite 360, Kansas City, Kansas 66101. The Consent Decree may also be examined on the following Department of Justice Web site, http://www.usdoj.gov/enrd/Consent_Decrees.html. A copy of the Consent Decree may also be obtained by mail from the Consent Decree Library, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044-7611 or by faxing or e-mailing a request to Tonia Fleetwood (tonia.fleetwood@usdoj.gov), fax no. (202) 514-0097, phone confirmation number (202) 514-1547. In requesting a copy from the Consent Decree Library, please enclose a check in the amount of \$9.50 (25 cents per page reproduction cost) payable to the U.S. Treasury.

Maureen Katz,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. E9-19996 Filed 8-19-09; 8:45 am]

BILLING CODE 4410-15-P

DEPARTMENT OF JUSTICE

Federal Bureau of Investigation

[OMB Number 1110-0021]

Training Division; FBI National Academy Level III Evaluation; Proposed Collection, Comments Requested

ACTION: 30-Day Notice of Information Collection Under Review: Approval for a reinstated collection; FBI National Academy Post-Course Questionnaire for Graduates; FBI National Academy Post-

Course Questionnaire for Supervisors of Graduates.

The Department of Justice (DOJ), Federal Bureau of Investigation (FBI), Training Division's Office of Technology, Research, and Curriculum Development (OTRCD) 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 October 19, 2009. This process is conducted in accordance with 5 CFR 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 Candace Matthews, Evaluation Program Manager, Federal Bureau of Investigation, Training Division, Curriculum Development and Evaluation Unit, FBI Academy, Quantico, Virginia 22135 or facsimile at (703) 632-3111.

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 three 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 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 a reinstated collection.

2. *Title of the Forms:*

FBI National Academy Post-Course Questionnaire for Graduates;

FBI National Academy Post-Course Questionnaire for Supervisors of Graduates.

3. *Agency Form Number, if any, and the applicable component of the department sponsoring the collection:* Form Number: 1110-0021.

Sponsor: Training 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: FBI National Academy graduates and their identified supervisors that represent state and local police and sheriffs' departments, military police organizations, and federal law enforcement agencies from the United States and over 150 foreign nations.

Brief Abstract: This collection is requested by FBI National Academy. These surveys have been developed that will measure the effectiveness of services that the FBI National Academy provides and will utilize the graduates and their supervisors' comments to improve upon the current process.

5. *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* There are approximately 2,000 FBI National Academy graduates that will respond to the FBI National Academy Post-Course Questionnaire for Graduates. It is predicted that we will receive a 75% respond rate. The average response time for reading the directions for the FBI National Academy Post-Course Questionnaire for Graduates for the FBI National Academy graduates is estimated to be 2 minutes; time to complete the survey is estimated to be 30 minutes.

There are approximately 2,000 FBI National Academy graduates who have identified their supervisors that will respond to the FBI National Academy Post-Course Questionnaire for Supervisors of Graduates. It is predicted that we will receive a 75% respond rate. The average response time for reading the directions for the FBI National Academy Post-Course Questionnaire for Supervisors of Graduates for the supervisors is estimated to be 2 minutes; time to complete the survey is estimated to be 30 minutes. The total hour burden for both surveys is 3,088 hours.

6. *An estimate of the total public burden (in hours) associated with the collection:*

The average hour burden for completing all the surveys combined is 3,088 hours.

If additional information is required, contact: Ms. 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: August 14, 2009

Lynn Bryant,

Department Clearance Officer, PRA, United States Department of Justice.

[FR Doc. E9-20040 Filed 8-19-09; 8:45 am]

BILLING CODE 4410-02-P

DEPARTMENT OF JUSTICE

Antitrust Division

United States v. Sapa Holding AB and Indalex Holdings Finance, Inc.; Proposed Final Judgment and Competitive Impact Statement

Notice is hereby given pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(b)-(h), that a proposed Final Judgment, Stipulation and Competitive Impact Statement have been filed with the United States District Court for the District of Columbia in *United States of America v. Sapa Holding AB and Indalex Holdings Finance, Inc.*, Civil Action No. 09-CV-01424. On July 30, 2009, the United States filed a Complaint alleging that the proposed acquisition by Sapa Holding AB ("Sapa") of Indalex Holdings Finance, Inc. ("Indalex") would violate Section 7 of the Clayton Act, 15 U.S.C. 18. The proposed Final Judgment, filed the same time as the Complaint, requires Sapa to divest either Sapa's or Indalex's assets, including certain tangible and intangible assets, used for the manufacture and sale of coiled extruded aluminum tubing used in the formation of high frequency communications cables in the United States. If it has not divested one of these facilities within the period prescribed in the proposed Final Judgment, then a trustee will be appointed to sell Indalex's entire Burlington, North Carolina extruded aluminum fabrication facility.

Copies of the Complaint, proposed Final Judgment and Competitive Impact Statement are available for inspection at the Department of Justice, Antitrust Division, Antitrust Documents Group, 450 Fifth Street, NW., Suite 1010, Washington, DC 20530 (telephone: 202-514-2481), on the Department of Justice's Web site at <http://www.usdoj.gov/atr>, and at the Office of the Clerk of the United States District Court for the District of Columbia. Copies of these materials may be obtained from the Antitrust Division upon request and payment of the copying fee set by Department of Justice regulations.

Public comment is invited within 60 days of the date of this notice. Such comments, and responses thereto, will be published in the **Federal Register** and filed with the Court. Comments should be directed to Maribeth Petrizzi, Chief, Litigation II Section, Antitrust Division, Department of Justice, 450 Fifth Street, NW., Suite 8700, Washington, DC 20530, (telephone: 202-307-0924).

Patricia A. Brink,

Deputy Director of Operations and Civil Enforcement.

United States of America, Department of Justice, Antitrust Division, 450 Fifth Street, NW., Suite 8700, Washington, DC 20530, Plaintiff v. Sapa Holding AB, Humlegardsgatan 17, Box 5505, SE-114 85 Stockholm, Sweden, Indalex Holdings Finance, Inc., 75 Tri-State International, Suite 450, Lincolnshire, Illinois 60069, Defendants.

Complaint

The United States of America, acting under the direction of the Attorney General of the United States, brings this civil antitrust action to enjoin the proposed acquisition of Indalex Holdings Finance, Inc. ("Indalex") by Sapa Holding AB ("Sapa") and to obtain other equitable relief. The United States alleges as follows:

I. Nature of Action

1. Pursuant to an asset purchase agreement dated June 16, 2009, Sapa intends to acquire directly or indirectly substantially all of the assets of Indalex and its affiliated companies in a transaction valued at about \$150 million. Defendants Sapa and Indalex currently compete in the manufacture and sale of fabricated aluminum extruded products in the United States. The proposed transaction would substantially lessen competition for the manufacture and sale of coiled extruded aluminum tubing used in the formation of high frequency communications cables in the United States.

2. Defendants Sapa and Indalex are the only two providers of coiled extruded aluminum tubing used in the formation of high frequency communications cables in the United States. Unless the acquisition is enjoined, consumers of coiled extruded aluminum tubing used in the formation of high frequency communications cables likely will pay higher prices as a consequence of the elimination of the existing competition between Sapa and Indalex. Accordingly, Sapa's acquisition of Indalex would violate Section 7 of the Clayton Act, 15 U.S.C. 18.

II. Jurisdiction and Venue

3. This action is filed by the United States under Section 15 of the Clayton Act, 15 U.S.C. 25, to prevent and restrain the violation by defendants of Section 7 of the Clayton Act, 15 U.S.C. 18.

4. Defendants manufacture and sell coiled aluminum tubing and other products in the flow of interstate commerce. Defendants' activities in the manufacture and sale of these products substantially affect interstate commerce. This Court has subject matter jurisdiction over this action pursuant to Section 12 of the Clayton Act, 15 U.S.C. 22, and 28 U.S.C. 1331, 1337(a), and 1345.

5. Defendants Sapa and Indalex transact business, and have consented to venue and personal jurisdiction, in the District of Columbia. Venue is therefore proper in this judicial district under 15 U.S.C. 22 and 28 U.S.C. 1391(c). Venue is also proper in the District of Columbia for Defendant Sapa, a Swedish corporation, under 28 U.S.C. 1391(d).

III. The Parties and the Transaction

6. Sapa is a Swedish corporation with its principal place of business in Stockholm, Sweden. Sapa sells fabricated aluminum products throughout the world, including in the United States, where it is the largest aluminum extruder. Among the fabricated aluminum products that Sapa sells in the United States is coiled extruded aluminum tubing used in the formation of high frequency communications cables, which Sapa manufactures at its plant in Catawba, North Carolina. In 2007, Sapa had about \$38.7 million in sales of coiled extruded aluminum tubing used in the formation of high frequency communications cables. In 2008, its sales of the product were about \$30.7 million. Sapa is owned by Orkla ASA, a Norwegian public limited company whose offices are located in Skøyen, Oslo in Norway. Orkla is a large, diversified international company with operations throughout the world.

7. Indalex is a Delaware corporation with its principal place of business in Lincolnshire, Illinois. Indalex sells fabricated aluminum products in Canada and the United States. Indalex is the second largest aluminum extruder in the United States. Among the fabricated aluminum products that Indalex sells in the United States is coiled extruded aluminum tubing used in the formation of high frequency communications cables, which Indalex sells from its plant in Burlington, North Carolina. In

2007, Indalex had about \$18.3 million in sales of coiled extruded aluminum tubing used in the formation of high frequency communications cables. In 2008, its sales of the product were about \$12 million.

8. Pursuant to a bankruptcy court-supervised bidding process, Sapa and Indalex entered into an Asset Purchase Agreement on June 16, 2009, under which Sapa agreed to acquire substantially all the assets of Indalex and its affiliates in the United States and Canada.

IV. Trade and Commerce

A. The Relevant Product Market

9. Cable television companies in the United States and abroad purchase coaxial cables to transmit high frequency broadband signals to their subscribers. One of the major inputs to these cables is specially manufactured extruded aluminum tubing, or "aluminum sheathing." Aluminum sheathing provides protection for the components of the cables to prevent the loss of the transmission signal to subscribers. To fulfill this function, it must be continuous, and it must not have any imperfections such as disruptions, pin-holes, or deformations along the entire length of the product. Aluminum sheathing also must be hermetic, forming an air-tight barrier around the circumference of the tubing to protect the cable against failure due to contamination from foreign substances. In addition, the aluminum sheathing must have a minimum length of 1,900 continuous feet to accommodate the needs of finished coaxial cable manufacturers.

10. Aluminum sheathing also must be thin-walled, typically with a wall thickness in the range of 0.013 to 0.057 inches, with a tolerance as low as +/- 0.002 inches across the entire aluminum sheathing products line. Tight tolerance is required by customers to maintain consistent electrical performance of the cable and assures consistent interface of the cable with standard connectors at its termination points. The ratio of the sheathing outer diameter to the wall thickness commonly falls into the 30:1 range. These thin walls make it difficult to maintain material consistency during the extrusion process and increase the risk of manufacturing defects and damage incurred during shipping.

11. Aluminum sheathing must be made from high-purity aluminum alloy with particular mechanical and electrical properties. It must be manufactured to achieve transmission of radio frequency signals up to a frequency of 3 Ghz at a signal loss level

no worse than –30 decibels. Typically, it will be made from either aluminum alloy 1060, with a minimum aluminum content of 99.6 percent, or 1100, with a minimum aluminum content of 99.0 percent. These alloys are flexible and pliable, which make them particularly suitable for cable applications but also susceptible to denting or damage during processing, particularly for sheathing with thin walls. Any such imperfections increase the electrical impedance of the finished cable and reduce its performance. Repeated, periodic imperfections in the sheathing, such as those that can result from irregularities in the coiling process, can reduce the cable performance and interfere with or block signals within a particular frequency band.

12. Aluminum sheathing is coiled and sold to coaxial cable manufacturers that stretch the aluminum tubing and insert electrical wiring and insulation. There is no other product that customers can use as a reasonably cost-effective substitute for aluminum sheathing. While copper exhibits superior electrical properties, it is five times more expensive than aluminum and, as a result, is not used. Also, most customers do not use welded aluminum tubing as a substitute because of its much lower reliability in cable applications and lack of conformity with their installed base.

13. A small but significant increase in the price of aluminum sheathing would not cause purchasers to substitute any other type of tubing to protect coaxial cables used to transmit high frequency broadband signals. Accordingly, the manufacture and sale of aluminum sheathing is a separate and distinct line of commerce and a relevant product market for the purpose of analyzing the effects of the acquisition under Section 7 of the Clayton Act.

B. The Relevant Geographic Market

14. All aluminum sheathing sold in the United States is manufactured in the United States, and Indalex and Sapa sell aluminum sheathing for uses throughout the country. No aluminum sheathing is imported into the United States from abroad.

15. The United States is a relevant geographic market for purposes of analyzing the effects of the acquisition under Section 7 of the Clayton Act.

C. Anticompetitive Effects

16. If Sapa is allowed to acquire the aluminum sheathing business of Indalex, the number of manufacturers of aluminum sheathing will decrease from two to one. Thus, the transaction will result in a monopoly.

17. Currently, Sapa and Indalex directly constrain each other's prices, limiting overall price increases for aluminum sheathing.

18. Purchasers of aluminum sheathing in the United States have benefited from the competition between Sapa and Indalex through lower prices, higher quality, more innovation, and better service. Without the competitive constraint of head-to-head competition from Indalex, Sapa will have the ability to exercise market power by raising prices, lowering product quality, decreasing services, and lessening product innovation.

19. The acquisition of Indalex by Sapa will remove a significant competitor in the market for aluminum sheathing in the United States. The resulting loss of competition will deny customers the benefits of competition, in violation of Section 7 of the Clayton Act.

D. Entry Into the Manufacture and Sale of Aluminum Sheathing

20. A new entrant would require significant time to obtain necessary equipment and to qualify its product to meet the demanding standards described in paragraphs 9 to 11, above.

21. A new entrant into the manufacture and sale of aluminum sheathing must obtain significant technical know-how in order to manufacture it. Extrusions of structural aluminum products are made from different aluminum alloys than those used to produce aluminum sheathing and are not typically formed into lengths of 2000 feet or more. Also, other types of aluminum extrusions typically are not coiled and require different post-extrusion processing. A new entrant would require significant time to develop the necessary expertise to perfect these processes in a high-volume production environment. Moreover, customers of aluminum sheathing must carefully qualify any new supplier, which can cost the customer over \$1 million and one year of time. Aluminum sheathing customers—i.e., cable manufacturers—incur significant liability in the form of repair and replacement costs and diminished reputation if their products do not perform as predicted.

22. A new entrant also must invest in significant equipment and tooling to successfully manufacture the product. Appropriate dies, coiling systems, and presses of the size commonly used to produce aluminum sheathing could require substantial investment, much of which represents sunk costs.

23. A new entrant, to be successful, must produce aluminum sheathing in quantities that permit it to realize

economies of scale. Current and projected demand for the product are not likely to be sufficient to attract new investment, particularly because customers are parties to long-term contracts, the expiration dates for which differ significantly. Thus, entry at sufficient scale to justify the cost of the required investment is unlikely.

24. Therefore, entry into the manufacture and sale of aluminum sheathing would not be timely, likely, or sufficient to counter anticompetitive price increases that Sapa could impose after its acquisition of Indalex.

V. Violation Alleged

25. The United States incorporates the allegations of paragraphs 1 through 24 above.

26. On or about July 31, 2009, Sapa plans to acquire Indalex and its assets used in the manufacture of coiled extruded aluminum tubing used in the formation of high frequency communications cables. The effect of this acquisition will be substantially to lessen competition in interstate trade and commerce in violation of Section 7 of the Clayton Act.

27. The transaction will likely have the following effects, among others:

a. Competition in the manufacture and sale of coiled extruded aluminum tubing used in the formation of high frequency communications cables in the United States will be lessened substantially;

b. Actual and potential competition between Sapa and Indalex in the manufacture and sale of coiled extruded aluminum tubing used in the formation of high frequency communications cables in the United States will be eliminated; and

c. Prices for coiled extruded aluminum tubing used in the formation of high frequency communications cables likely will increase and the levels of quality, services and innovation likely will decrease.

VI. Requested Relief

28. The United States requests that this Court:

a. Adjudge and decree that Sapa's proposed acquisition of Indalex and its assets violates Section 7 of the Clayton Act, 15 U.S.C. 18;

b. Permanently enjoin and restrain Sapa and all persons acting on its behalf from consummating the proposed acquisition or from entering into or carrying out any contract, agreement, plan, or understanding, the effect of which would be to combine the aluminum sheathing assets of Indalex and Sapa;

c. Award the United States its cost for this action; and

d. Grant the United States such other and further relief as the case requires and the Court deems just and proper.

Respectfully submitted,
July 30, 2009.
For Plaintiff United States.

Christine A. Varney,
Assistant Attorney General.

William F. Cavanaugh, Jr.,
Deputy Assistant Attorney General.

J. Robert Kramer II,
Director of Operations.

Maribeth Petrizzi,
Bar No. 435204, Chief, Litigation II Section.

Dorothy B. Fountain,
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John F. Greaney,
Suzanne Morris,
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Dando B. Cellini,
Warren A. Rosborough IV,
Bar No. 495063.

Attorneys, U.S. Department of Justice,
Antitrust Division, Litigation II Section,
Fifth Street, NW., Suite 8700, Washington,
DC 20530.

Final Judgment

Whereas, Plaintiff, United States of America, filed its Complaint on July 30, 2009, the United States and defendants, Sapa Holding AB and Indalex Holdings Finance, Inc., by their respective attorneys, have consented to the entry of this Final Judgment without trial or adjudication of any issue of fact or law, and without this Final Judgment constituting any evidence against or admission by any party regarding any issue of fact or law;

And whereas, defendants agree to be bound by the provisions of this Final Judgment pending its approval by the Court;

And whereas, the essence of this Final Judgment is the prompt and certain divestiture of certain rights and assets by the defendants to assure that competition is not substantially lessened;

And whereas, the United States requires defendants to make certain divestitures for the purpose of remedying the loss of competition alleged in the Complaint;

And whereas, defendants have represented to the United States that the divestitures required below can and will be made and that defendants will later raise no claim of hardship or difficulty as grounds for asking the Court to modify any of the divestiture provisions contained below;

Now therefore, before any testimony is taken, without trial or adjudication of any issue of fact or law, and upon

consent of the parties, *It is ordered, adjudged and decreed:*

I. Jurisdiction

This Court has jurisdiction over the subject matter of and each of the parties to this action. The Complaint states a claim upon which relief may be granted against defendants under Section 7 of the Clayton Act, 15 U.S.C. 8, as amended.

II. Definitions

As used in this Final Judgment:

A. "Acquirer" means the entity to whom defendants divest the Divestiture Assets or to whom the trustee divests the Alternative Divestiture Assets.

B. "Sapa" means defendant Sapa Holding AB, a subsidiary of Orkla ASA, headquartered in Stockholm, Sweden, its successors and assigns, and its parents, subsidiaries, divisions, groups, affiliates, partnerships and joint ventures, and their directors, officers, managers, agents, and employees.

C. "Indalex" means defendant Indalex Holdings Finance, Inc., headquartered in Lincolnshire, Illinois, its successors and assigns, and its subsidiaries, divisions, groups, affiliates, partnerships and joint ventures, and their directors, officers, managers, agents, and employees.

D. "Divestiture Assets" means:

(1) Sapa's Catawba, North Carolina facility ("Catawba facility"), located at 6555 CommScope Road, Catawba, North Carolina, including: (a) All tangible assets comprising the Catawba facility, including, but not limited to, all research and development activities; all manufacturing equipment, tooling and fixed assets, personal property, inventory, office furniture, materials, supplies, and other tangible property and all assets used in connection with the Catawba facility; all licenses, permits and authorizations issued by any governmental organization relating to the Catawba facility; all contracts, teaming arrangements, agreements, leases, commitments, certifications, and understandings relating to the Catawba facility, including supply agreements; all customer lists, contracts, accounts, and credit records; all repair and performance records and all other records relating to the Catawba facility;

(b) All intangible assets used in the development, production and sale of coiled extruded aluminum tubing used in the formation of high frequency communications cables, including, but not limited to, all patents, licenses and sublicenses, intellectual property, copyrights, trademarks, trade names, service marks, service names, technical information, computer software and

related documentation, know-how, trade secrets, drawings, blueprints, designs, design protocols, specifications for materials, specifications for parts and devices, safety procedures for the handling of materials and substances, quality assurance and control procedures, design tools and simulation capability; all manuals and technical information provided by Sapa to its own employees, customers, suppliers, agents or licensees; and all research data concerning historic and current research and development efforts at the Catawba facility, including, but not limited to, designs of experiments and the results of successful and unsuccessful designs and experiments; or

(2) The portion of Indalex's assets located at any time during the past two years on the north side of Industry Drive ("Burlington aluminum sheathing facility"), at its Burlington, North Carolina facility, 1507 Industry Drive, Burlington, North Carolina ("Burlington facility"), including:

(a) All tangible assets comprising the Burlington aluminum sheathing facility, including, but not limited to, all assets that have been used in connection with the manufacture and sale of coiled extruded aluminum tubing used in the formation of high frequency communications cables ("aluminum sheathing"); a total of two presses, including the 14-inch press used by Indalex primarily to produce aluminum sheathing along with all assets necessary to the operation of those two presses, including assets involved in the processing and handling of billets and coiling or other post-extrusion processing operations; all research and development activities; all manufacturing equipment, tooling and fixed assets, personal property, inventory, office furniture, materials, supplies, and other tangible property and all assets used in connection with the Burlington aluminum sheathing facility; all licenses, permits and authorizations issued by any governmental organization relating to the Burlington aluminum sheathing facility; all contracts, teaming arrangements, agreements, leases, commitments, certifications, and understandings relating to the Burlington aluminum tubing facility, including supply agreements; all customer lists, contracts, accounts, and credit records; all repair and performance records and all other records relating to the Burlington aluminum sheathing facility; and

(b) All intangible assets used in the development, production and sale of aluminum sheathing or any other product manufactured at the Burlington

aluminum sheathing facility during the past two years, including, but not limited to, all patents, licenses and sublicenses, intellectual property, copyrights, trademarks, trade names, service marks, service names, technical information, computer software and related documentation, know-how, trade secrets, drawings, blueprints, designs, design protocols, specifications for materials, specifications for parts and devices, safety procedures for the handling of materials and substances, quality assurance and control procedures, design tools and simulation capability; all manuals and technical information provided by Indalex to its own employees, customers, suppliers, agents or licensees; and all research data concerning historic and current research and development efforts at the Burlington aluminum sheathing facility, including, but not limited to, designs of experiments and the results of successful and unsuccessful designs and experiments.

(c) Notwithstanding the foregoing, the non-press assets (including but not limited to repair/performance documentation, customer contracts, technical information and conduit and distribution tooling) that primarily relate to, and the employees primarily assigned to, the two presses and operations south of Industry Road at the Burlington plant are not part of the "Burlington aluminum sheathing facility."

E. "Alternative Divestiture Assets" means Indalex's Burlington facility including:

(1) All tangible assets comprising the Burlington facility, including, but not limited to, all research and development activities; all manufacturing equipment, tooling and fixed assets, personal property, inventory, office furniture, materials, supplies, and other tangible property and all assets used in connection with the Burlington facility; all licenses, permits and authorizations issued by any governmental organization relating to the Burlington facility; all contracts, teaming arrangements, agreements, leases, commitments, certifications, and understandings relating to the Burlington facility, including, supply agreements; all customer lists, contracts, accounts, and credit records; all repair and performance records and all other records relating to the Burlington facility;

(2) All intangible assets used in the development, production and sale of extruded aluminum products, including, but not limited to, all patents, licenses and sublicenses, intellectual property, copyrights, trademarks, trade

names, service marks, service names, technical information, computer software and related documentation, know-how, trade secrets, drawings, blueprints, designs, design protocols, specifications for materials, specifications for parts and devices, safety procedures for the handling of materials and substances, quality assurance and control procedures, design tools and simulation capability; all manuals and technical information provided by Indalex to its own employees, customers, suppliers, agents or licensees; and all research data concerning historic and current research and development efforts relating to the Burlington facility, including, but not limited to, designs of experiments and the results of successful and unsuccessful designs and experiments.

III. Applicability

A. This Final Judgment applies to Sapa and Indalex, as defined above, and all other persons in active concert or participation with either of them who receive actual notice of this Final Judgment by personal service or otherwise.

B. If, prior to complying with Sections IV and V of this Final Judgment, defendants sell or otherwise dispose of all or substantially all of their assets or of lesser business units that include the Divestiture Assets or the Alternative Divestiture Assets, they shall require the purchaser to be bound by the provisions of this Final Judgment. Defendants need not obtain such an agreement from the acquirer of the assets divested pursuant to this Final Judgment.

IV. Divestitures

A. Defendants are ordered and directed, within ninety (90) calendar days after the filing of the Complaint in this matter, or five (5) calendar days after notice of the entry of this Final Judgment by the Court, whichever is later, to divest the Divestiture Assets in a manner consistent with this Final Judgment to an Acquirer acceptable to the United States, in its sole discretion. The United States, in its sole discretion, may agree to one or more extensions of this time period not to exceed sixty (60) calendar days in total, and shall notify the Court in such circumstances. Defendants agree to use their best efforts to divest the Divestiture Assets as expeditiously as possible. If defendants have not divested the Divestiture Assets within the time periods specified in this paragraph, the Alternative Divestiture Assets shall be divested in accordance with Section V of this Final Judgment.

B. In accomplishing the divestiture ordered by this Final Judgment,

defendants promptly shall make known, by usual and customary means, the availability of the Divestiture Assets. Defendants shall inform any person making inquiry regarding a possible purchase of the Divestiture Assets that they are being divested pursuant to this Final Judgment and provide that person with a copy of this Final Judgment. Defendants shall offer to furnish to all prospective Acquirers, subject to customary confidentiality assurances, all information and documents relating to the Divestiture Assets customarily provided in a due diligence process except such information or documents subject to the attorney-client privilege or work-product doctrine. Defendants shall make available such information to the United States at the same time that such information is made available to any other person.

C. Defendants shall provide the Acquirer and the United States information relating to the personnel involved in the production, operation, development and/or sale of the Divestiture Assets, or the Alternative Divestiture Assets if the divestiture is made pursuant to Section V of this Final Judgment, to enable the Acquirer to make offers of employment. Defendants will not interfere with any negotiations by the Acquirer to employ any defendant employee whose primary responsibility is the production, operation, development and/or sale of the Divestiture Assets, or the Alternative Divestiture Assets if the divestiture is made pursuant to Section V of this Final Judgment. For a period of twelve (12) months from the date of the divestiture of the Divestiture Assets, defendants shall not solicit to hire, or hire, any such defendant employee that receives a substantially equivalent offer of employment from the approved Acquirer, unless such employee is terminated or laid off by the Acquirer, or the Acquirer agrees that defendants may solicit and hire that employee.

D. Defendants shall permit prospective Acquirers of the Divestiture Assets, or the Alternative Divestiture Assets if the divestiture is made pursuant to Section V of this Final Judgment, to have reasonable access to personnel and to make inspections of the physical facilities of the Divestiture Assets, or the Alternative Divestiture Assets if the divestiture is made pursuant to Section V of this Final Judgment; access to any and all environmental, zoning, and other permit documents and information; and access to any and all financial, operational, or other documents and information customarily provided as part of a due diligence process.

E. Defendants shall warrant to the Acquirer that each asset will be operational on the date of sale.

F. Defendants shall not take any action that will impede in any way the permitting, operation, or divestiture of the Divestiture Assets, or the Alternative Divestiture Assets if the divestiture is made pursuant to Section V of this Final Judgment.

G. Defendants shall warrant to the Acquirer that there are no material defects in the environmental, zoning or other permits pertaining to the operation of each asset, and that following the sale of the Divestiture Assets or the Alternative Divestiture Assets, defendants will not undertake, directly or indirectly, any challenges to the environmental, zoning, or other permits relating to the operation of the Divestiture Assets or the Alternative Divestiture Assets.

H. Unless the United States otherwise consents in writing, the divestiture pursuant to Section IV, or by trustee appointed pursuant to Section V, of this Final Judgment, shall include the entire Divestiture Assets or the Alternative Divestiture Assets, and shall be accomplished in such a way as to satisfy the United States, in its sole discretion, that the Divestiture Assets or the Alternative Divestiture Assets can and will be used by the Acquirer as part of a viable, ongoing business in the production and sale of coiled extruded aluminum tubing used in the formation of high frequency communications cables. The divestitures, whether pursuant to Section IV or Section V of this Final Judgment,

(1) Shall be made to an Acquirer that, in the United States's sole judgment, has the intent and capability (including the necessary managerial, operational, technical and financial capability) of competing effectively in the business of coiled extruded aluminum tubing used in the formation of high frequency communications cables; and

(2) Shall be accomplished so as to satisfy the United States, in its sole discretion, that none of the terms of any agreement between an Acquirer and defendants give defendants the ability unreasonably to raise the Acquirer's costs, to lower the Acquirer's efficiency, or otherwise to interfere in the ability of the Acquirer to compete effectively.

V. Appointment of Trustee

A. If defendants have not divested the Divestiture Assets within the time period specified in Section IV(A), defendants shall notify the United States of that fact in writing. Upon application of the United States, the Court shall appoint a trustee selected by

the United States and approved by the Court to effect the sale of the Alternative Divestiture Assets.

B. After the appointment of a trustee becomes effective, only the trustee shall have the right to sell the Alternative Divestiture Assets. The trustee shall have the power and authority to accomplish the divestiture to an Acquirer acceptable to the United States at such price and on such terms as are then obtainable upon reasonable effort by the trustee, subject to the provisions of Sections IV, V, and VI of this Final Judgment, and shall have such other powers as this Court deems appropriate. Subject to Section V(D) of this Final Judgment, the trustee may hire at the cost and expense of defendants any investment bankers, attorneys, or other agents, who shall be solely accountable to the trustee, reasonably necessary in the trustee's judgment to assist in the divestiture.

C. Defendants shall not object to a sale by the trustee on any ground other than the trustee's malfeasance. Any such objections by defendants must be conveyed in writing to the United States and the trustee within ten (10) calendar days after the trustee has provided the notice required under Section VI.

D. The trustee shall serve at the cost and expense of defendants, on such terms and conditions as the United States approves, and shall account for all monies derived from the sale of the assets sold by the trustee and all costs and expenses so incurred. After approval by the Court of the trustee's accounting, including fees for its services and those of any professionals and agents retained by the trustee, all remaining money shall be paid to defendants and the trust shall then be terminated. The compensation of the trustee and any professionals and agents retained by the trustee shall be reasonable in light of the value of the Alternative Divestiture Assets and based on a fee arrangement providing the trustee with an incentive based on the price and terms of the divestiture and the speed with which it is accomplished, but timeliness is paramount.

E. Defendants shall use their best efforts to assist the trustee in accomplishing the required divestiture. The trustee and any consultants, accountants, attorneys, and other persons retained by the trustee shall have full and complete access to the personnel, books, records, and facilities of the business to be divested, and defendants shall develop financial and other information relevant to such business as the trustee may reasonably request, subject to reasonable protection

for trade secret or other confidential research, development, or commercial information. Defendants shall take no action to interfere with or to impede the trustee's accomplishment of the divestiture.

F. After its appointment, the trustee shall file monthly reports with the United States and the Court setting forth the trustee's efforts to accomplish the divestiture ordered under this Final Judgment. To the extent such reports contain information that the trustee deems confidential, such reports shall not be filed in the public docket of the Court. Such reports shall include the name, address, and telephone number of each person who, during the preceding month, made an offer to acquire, expressed an interest in acquiring, entered into negotiations to acquire, or was contacted or made an inquiry about acquiring, any interest in the Alternative Divestiture Assets, and shall describe in detail each contact with any such person. The trustee shall maintain full records of all efforts made to divest the Alternative Divestiture Assets.

G. If the trustee has not accomplished the divestiture ordered under this Final Judgment within six (6) months after its appointment, the trustee shall promptly file with the Court a report setting forth (1) the trustee's efforts to accomplish the required divestiture, (2) the reasons, in the trustee's judgment, why the required divestiture has not been accomplished, and (3) the trustee's recommendations. To the extent such reports contain information that the trustee deems confidential, such reports shall not be filed in the public docket of the Court. The trustee shall at the same time furnish such report to the United States, which shall have the right to make additional recommendations consistent with the purpose of the trust. The Court thereafter shall enter such orders as it shall deem appropriate to carry out the purpose of the Final Judgment, which may, if necessary, include extending the trust and the term of the trustee's appointment by a period requested by the United States.

VI. Notice of Proposed Divestiture

A. Within two (2) business days following execution of a definitive divestiture agreement, defendants or the trustee, whichever is then responsible for effecting the divestiture required herein, shall notify the United States of any proposed divestiture required by Section IV or V of this Final Judgment. If the trustee is responsible, it shall similarly notify defendants. The notice shall set forth the details of the proposed divestiture and list the name, address, and telephone number of each

person not previously identified who offered or expressed an interest in or desire to acquire any ownership interest in the Divestiture Assets or the Alternative Divestiture Assets, together with full details of the same.

B. Within fifteen (15) calendar days of receipt by the United States of such notice, the United States may request from defendants, the proposed Acquirer, any other third party, or the trustee, if applicable, additional information concerning the proposed divestiture, the proposed Acquirer, and any other potential Acquirer. Defendants and the trustee shall furnish any additional information requested within fifteen (15) calendar days of the receipt of the request, unless the parties shall otherwise agree.

C. Within thirty (30) calendar days after receipt of the notice or within twenty (20) calendar days after the United States has been provided the additional information requested from defendants, the proposed Acquirer, any third party, and the trustee, whichever is later, the United States shall provide written notice to defendants and the trustee, if there is one, stating whether or not it objects to the proposed divestiture. If the United States provides written notice that it does not object, the divestiture may be consummated, subject only to defendants' limited right to object to the sale under Section V(C) of this Final Judgment. Absent written notice that the United States does not object to the proposed Acquirer or upon objection by the United States, a divestiture proposed under Section IV or Section V shall not be consummated. Upon objection by defendants under Section V(C), a divestiture proposed under Section V shall not be consummated unless approved by the Court.

VII. Financing

Defendants shall not finance all or any part of any purchase made pursuant to Section IV or V of this Final Judgment.

VIII. Hold Separate

Until the divestiture required by this Final Judgment has been accomplished, defendants shall take all steps necessary to comply with the Hold Separate Stipulation and Order entered by this Court. Defendants shall take no action that would jeopardize the divestiture ordered by this Court.

IX. Affidavits

A. Within twenty (20) calendar days of the filing of the Complaint in this matter, and every thirty (30) calendar days thereafter until the divestiture has

been completed under Section IV or V, defendants shall deliver to the United States an affidavit as to the fact and manner of its compliance with Section IV or V of this Final Judgment. Each such affidavit shall include the name, address, and telephone number of each person who, during the preceding thirty (30) calendar days, made an offer to acquire, expressed an interest in acquiring, entered into negotiations to acquire, or was contacted or made an inquiry about acquiring, any interest in the Divestiture Assets or the Alternative Divestiture Assets if the divestiture is made pursuant to Section V of this Final Judgment, and shall describe in detail each contact with any such person during that period. Each such affidavit shall also include a description of the efforts defendants have taken to solicit buyers for the Divestiture Assets or the Alternative Divestiture Assets, and to provide required information to prospective Acquirers, including the limitations, if any, on such information. Assuming the information set forth in the affidavit is true and complete, any objection by the United States to information provided by defendants, including limitation on information, shall be made within fourteen (14) calendar days of receipt of such affidavit.

B. Within twenty (20) calendar days of the filing of the Complaint in this matter, defendants shall deliver to the United States an affidavit that describes in reasonable detail all actions defendants have taken and all steps defendants have implemented on an ongoing basis to comply with Section VIII of this Final Judgment. Defendants shall deliver to the United States an affidavit describing any changes to the efforts and actions outlined in defendants' earlier affidavits filed pursuant to this section within fifteen (15) calendar days after the change is implemented.

C. Defendants shall keep all records of all efforts made to preserve and divest the Divestiture Assets or the Alternative Divestiture Assets until one year after such divestiture has been completed.

X. Compliance Inspection

A. For the purposes of determining or securing compliance with this Final Judgment, or of determining whether the Final Judgment should be modified or vacated, and subject to any legally recognized privilege, from time to time authorized representatives of the United States Department of Justice Antitrust Division, including consultants and other persons retained by the United States, shall, upon written request of an authorized representative of the

Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to defendants, be permitted:

(1) Access during defendants' office hours to inspect and copy, or at the option of the United States, to require defendants to provide hard copy or electronic copies of, all books, ledgers, accounts, records, data, and documents in the possession, custody, or control of defendants, relating to any matters contained in this Final Judgment; and

(2) To interview, either informally or on the record, defendants' officers, employees, or agents, who may have their individual counsel present, regarding such matters. The interviews shall be subject to the reasonable convenience of the interviewee and without restraint or interference by defendants.

B. Upon the written request of an authorized representative of the Assistant Attorney General in charge of the Antitrust Division, defendants shall submit written reports or response to written interrogatories, under oath if requested, relating to any of the matters contained in this Final Judgment as may be requested.

C. No information or documents obtained by the means provided in this section shall be divulged by the United States to any person other than an authorized representative of the executive branch of the United States, except in the course of legal proceedings to which the United States is a party (including grand jury proceedings), or for the purpose of securing compliance with this Final Judgment, or as otherwise required by law.

D. If at the time information or documents are furnished by defendants to the United States, defendants represent and identify in writing the material in any such information or documents to which a claim of protection may be asserted under Rule 26(c)(1)(G) of the Federal Rules of Civil Procedure, and defendants mark each pertinent page of such material, "Subject to claim of protection under Rule 26(c)(1)(G) of the Federal Rules of Civil Procedure," then the United States shall give defendants ten (10) calendar days notice prior to divulging such material in any legal proceeding (other than a grand jury proceeding).

XI. No Reacquisition

Defendants may not reacquire any part of the Divestiture Assets or the Alternative Divestiture Assets during the term of this Final Judgment.

XII. Retention of Jurisdiction

This Court retains jurisdiction to enable any party to this Final Judgment to apply to this Court at any time for further orders and directions as may be necessary or appropriate to carry out or construe this Final Judgment, to modify any of its provisions, to enforce compliance, and to punish violations of its provisions.

XIII. Expiration of Final Judgment

Unless this Court grants an extension, this Final Judgment shall expire ten (10) years from the date of its entry.

XIV. Public Interest Determination

Entry of this Final Judgment is in the public interest. The parties have complied with the requirements of the Antitrust Procedures and Penalties Act, 15 U.S.C. 16, including making copies available to the public of this Final Judgment, the Competitive Impact Statement, and any comments thereon and the United States's responses to comments. Based upon the record before the Court, which includes the Competitive Impact Statement and any comments and response to comments filed with the Court, entry of this Final Judgment is in the public interest.

Date: _____

Court approval subject to procedures of Antitrust Procedures and Penalties Act, 15 U.S.C. § 16.

/s/

United States District Judge.

United States District Court for The District of Columbia

United States of America, Plaintiff, v. *Sapa Holding Ab, And Indalex Holdings Finance, Inc.*, Defendants.

Case No.:

Judge:

Deck Type: Antitrust.

Date Stamp: July 30, 2009.

Competitive Impact Statement

Plaintiff United States of America ("United States"), pursuant to Section 2(b) of the Antitrust Procedures and Penalties Act ("APPA" or "Tunney Act"), 15 U.S.C. 16(b)-(h), files this Competitive Impact Statement relating to the proposed Final Judgment submitted for entry in this civil antitrust proceeding.

I. Nature and Purpose of the Proceeding

Defendant Sapa Holding AB ("Sapa") and Indalex Holdings Finance, Inc. ("Indalex") entered into an Asset Purchase Agreement dated June 16, 2009, pursuant to which Sapa would acquire Indalex in a sale under Chapter 11 of the Bankruptcy Code. The United States filed a civil antitrust Complaint

on July 30, 2009, seeking to enjoin the proposed acquisition, alleging that it would substantially lessen competition for the manufacture and sale of coiled extruded aluminum tubing used in the formation of high frequency communications cables in the United States in violation of Section 7 of the Clayton Act, 15 U.S.C. 18. This loss of competition would likely result in consumers paying higher prices, lowering product quality, decreasing services, and reducing product innovation for coiled extruded aluminum tubing used in the formation of high frequency communications cables.

With the filing of the Complaint in this case, the United States also filed a Hold Separate Stipulation and Order and proposed Final Judgment, which are designed to eliminate the anticompetitive effects of the proposed acquisition. Under the proposed Final Judgment, explained more fully below, defendants are required promptly to divest either Sapa's or Indalex's assets used for the manufacture and sale of coiled extruded aluminum tubing used in the formation of high frequency communications cables in the United States. If they have not divested one of these facilities within the period prescribed in the proposed Final Judgment, then a trustee will be appointed to sell Indalex's entire Burlington, North Carolina extruded aluminum fabrication facility. Under the terms of the Hold Separate Stipulation and Order, Sapa is required to take certain steps to ensure that the assets eligible to be divested will be operated as a competitively independent, economically viable and ongoing business concern, that will remain independent and uninfluenced by the consummation of the acquisition, and that competition is maintained during the pendency of the ordered divestiture.

The United States and the defendants have stipulated that the proposed Final Judgment may be entered after compliance with the APPA. Entry of the proposed Final Judgment would terminate this action, except that the Court would retain jurisdiction to construe, modify, or enforce the provisions of the proposed Final Judgment and to punish violations thereof.

II. Description of the Events Giving Rise to the Alleged Violation

A. The Parties to the Proposed Transaction

Sapa is a Swedish corporation with its principal place of business in Stockholm, Sweden. Sapa sells

fabricated aluminum products throughout the world, including in the United States, where it is the largest aluminum extruder. Among the fabricated aluminum products that Sapa sells in the United States is coiled extruded aluminum tubing used in the formation of high frequency communications cables, which Sapa manufactures at its plant in Catawba, North Carolina. Sapa is owned by Orkla ASA, a Norwegian public limited company whose offices are located in Skpyen, Oslo in Norway. Orkla is a large, diversified international company with operations throughout the world.

Indalex is a Delaware corporation with its principal place of business in Lincolnshire, Illinois. Indalex sells fabricated aluminum products in Canada and the United States. Indalex is the second largest aluminum extruder in the United States. Among the fabricated aluminum products that Indalex sells in the United States is coiled extruded aluminum tubing used in the formation of high frequency communications cables, which Indalex sells from its plant in Burlington, North Carolina.

Pursuant to a bankruptcy court-supervised bidding process, Sapa and Indalex entered into an Asset Purchase Agreement on June 16, 2009, under which Sapa agreed to acquire substantially all the assets of Indalex and its affiliates in the United States and Canada. Sapa and Indalex are the only two manufacturers of coiled extruded aluminum tubing used in the formation of high frequency communications cables in the United States. Sapa's acquisition of Indalex thus would result in a monopoly. Without the head-to-head competition from Indalex, Sapa will be able to exercise power in the market for coiled extruded aluminum tubing used in the formation of high frequency communications cables sold in the United States by raising prices, lowering product quality, decreasing services, and reducing product innovation. This transaction is the subject of the Complaint and proposed Final Judgment filed by the United States on July 30, 2009.

The United States has agreed to entry of the proposed Final Judgment and Hold Separate Stipulation and Order, which will prevent injury to competition that otherwise likely would arise from the proposed acquisition of Indalex by Sapa.

B. The Relevant Product Market

Coiled extruded aluminum tubing, or "aluminum sheathing," is used in the fabrication of coaxial cables, which are used in large quantities by cable

television companies in the United States and abroad to transmit high frequency broadband signals to their subscribers. Manufacturers of coaxial cables use aluminum sheathing sold by Sapa and Indalex to protect the cable wiring and insulation and to prevent the loss of the transmission signal to subscribers. To fulfill this function, aluminum sheathing must be continuous, and it must not have any imperfections such as disruptions, pinholes, or deformations along the entire length of the product. Aluminum sheathing also must be hermetic, forming an air-tight barrier around the circumference of the tubing. In addition, the aluminum sheathing must have a minimum length of about 1,900 continuous feet to accommodate the needs of finished coaxial cable manufacturers.

Aluminum sheathing also must be thin-walled, typically with a wall thickness in the range of 0.019 to 0.057 inches, with a tolerance as low as $+/- 0.002$ inches across the entire aluminum sheathing product line. The ratio of the sheathing outer diameter to the wall thickness commonly falls into the 30:1 range. These thin walls make it difficult to maintain material consistency during the extrusion process and increase the risk of manufacturing defects and damage incurred during shipping.

Aluminum sheathing used for coaxial cables must be made from high-purity aluminum alloy with particular mechanical and electrical properties. Typically, it will be made from either aluminum alloy 1060, with a minimum aluminum content of 99.6 percent, or 1100, with a minimum aluminum content of 99.0 percent. These alloys are flexible and pliable making them particularly suitable for cable applications but also susceptible to denting or damage during processing. Any imperfection could increase the electrical impedance of the finished cable and reduce its performance. Moreover, the tubing must be designed and manufactured so that transmission of radio frequency signals up to a frequency of 3 Ghz at a signal loss level no worse than -30 decibels is achieved.

Aluminum sheathing is coiled and sold to coaxial cable manufacturers that stretch the aluminum tubing and insert electrical wiring and insulation. There is no other product that coaxial cable manufacturers can use as a reasonably cost effective substitute for aluminum sheathing. A small but significant increase in the price of aluminum sheathing would not cause purchasers to substitute any other type of tubing to protect coaxial cables used to transmit high frequency broadband signals.

Accordingly, the manufacture and sale of aluminum sheathing is a separate and distinct line of commerce and a relevant product market for the purpose of analyzing the effects of the acquisition under Section 7 of the Clayton Act.

C. *The Relevant Geographic Market*

All aluminum sheathing sold in the United States is manufactured in the United States and Indalex and Sapa sell aluminum sheathing for uses throughout the country. No aluminum sheathing is imported into the United States from abroad. The United States is a relevant geographic market for purposes of analyzing the effects of the acquisition under Section 7 of the Clayton Act.

D. *The Competitive Effects of the Transaction*

If Sapa is allowed to acquire the aluminum sheathing business of Indalex, the number of manufacturers of aluminum sheathing will decrease from two to one. Thus, the transaction will result in a monopoly. Currently, Sapa and Indalex directly constrain each other's prices, limiting overall price increases for aluminum sheathing. Purchasers of aluminum sheathing in the United States have benefited from the competition between Sapa and Indalex through lower prices, higher quality, more innovation, and better service. Without the competitive constraint of head-to-head competition from Indalex, Sapa will have the ability to exercise market power by raising prices, lowering product quality, decreasing services, and lessening product innovation. The acquisition of Indalex by Sapa would remove a significant competitor in the market for aluminum sheathing in the United States. The resulting loss of competition would deny customers the benefits of competition, in violation of Section 7 of the Clayton Act. Entry into the manufacture and sale of aluminum sheathing would not be timely, likely, or sufficient to counter the anticompetitive effects of the transaction. A new entrant into the manufacture and sale of aluminum sheathing must obtain significant technical know-how in order to manufacture it. Extrusions of structural aluminum products are made from different aluminum alloys and are not typically formed into lengths of 2000 feet or more. Also, other types of aluminum extrusions typically are not coiled and require different post-extrusion processing. A new entrant would require significant time to develop the necessary expertise to perfect these processes in a high-volume production environment. Moreover,

customers of aluminum sheathing must carefully qualify any new supplier, which can cost the customer over \$1 million and one year of time. Aluminum sheathing customers—i.e., cable manufacturers—incur significant liability in the form of repair and replacement costs and diminished reputation if their products do not perform as predicted.

A new entrant also must invest in significant equipment and tooling to successfully manufacture the product. Appropriate dies, coiling systems, and presses of the size commonly used to produce aluminum sheathing require substantial investment, much of which represents sunk costs.

A new entrant, to be successful, must produce aluminum sheathing in quantities that permit it to realize economies of scale. Current and projected demand for the product are not likely to be sufficient to attract new investment, particularly because customers are parties to long-term contracts, the expiration dates for which differ significantly. Thus, entry at sufficient scale to justify the cost of the required investment is unlikely.

Accordingly, entry into the manufacture and sale of aluminum sheathing would not be timely, likely, or sufficient to counter anticompetitive price increases that Sapa would likely impose after its acquisition of Indalex.

III. Explanation of the Proposed Final Judgment

The divestiture requirement of the proposed Final Judgment will eliminate the anticompetitive effects of the acquisition in aluminum sheathing by establishing a new, independent, and economically viable competitor. The proposed Final Judgment requires the defendants to divest either Sapa's Catawba, North Carolina aluminum sheathing facility ("Catawba facility") or the Indalex aluminum sheathing assets located at its Burlington, North Carolina extruded aluminum fabrication facility ("Burlington aluminum sheathing facility"). As the Burlington aluminum sheathing facility has not previously operated as a profitable stand-alone business, the proposed Final Judgment also requires that defendants divest a second press, which currently produces other extruded aluminum products, to ensure that a stand-alone aluminum sheathing facility at Burlington would be attractive to a viable purchaser. This will allow a purchaser to spread the fixed costs of operating the facility over a larger output, thereby reducing unit costs of production. Each facility profitably produces aluminum sheathing currently and likely would

continue to do so if acquired by a purchaser who can and will operate the facility as part of a viable, ongoing business in the production and sale of aluminum sheathing.

Under the proposed Final Judgment, defendants will have ninety (90) calendar days from the filing of the Complaint or five (5) calendar days from notice of the entry of the Final Judgment by the Court, whichever is later, to divest either the Catawba facility or the Burlington aluminum sheathing facility to a purchaser acceptable to the United States, in its sole discretion. The United States, in its sole discretion, may agree to one or more extensions of this time period not to exceed sixty (60) calendar days in total. The assets must be divested in such a way as to satisfy the United States in its sole discretion that the operations can and will be operated by the purchaser as a viable, ongoing business that can compete effectively in the relevant market. Defendants agree to use their best efforts to accomplish the divestiture as expeditiously as possible and shall cooperate with prospective purchasers.

Due to the exigencies of the bankruptcy process, the United States has expedited its investigation of the proposed transaction. The United States, however, has obtained sufficient information to conclude with reasonable certainty that divestiture of either the Catawba facility or the Burlington aluminum sheathing facility to a viable purchaser will solve the competitive concerns implicated by the proposed acquisition. Further, it is probable that defendants can accomplish the divestiture of one of these facilities to a viable purchaser.

In the event, however, that defendants have not divested the Catawba facility or the Burlington aluminum sheathing facility within the periods prescribed in the proposed Final Judgment, the Final Judgment provides that the Court will appoint a trustee selected by the United States to sell the entire Indalex extruded aluminum fabrication facility, located at 1507 Industry Drive, Burlington, North Carolina ("Burlington facility"). If a trustee is appointed, the proposed Final Judgment provides that defendants will pay all costs and expenses of the trustee. The trustee's commission will be structured so as to provide an incentive for the trustee based on the price obtained and the speed with which the divestiture is accomplished. After his or her appointment becomes effective, the trustee will file monthly reports with the Court and the United States setting forth his or her efforts to accomplish the divestiture. At the end of six months, if the divestiture has not been

accomplished, the trustee and the United States will make recommendations to the court, which shall enter such orders as appropriate, in order to carry out the purpose of the trust, including extending the trust or the term of the trustee's appointment.

Although defendants have the option of divesting either the Catawba facility or the Burlington aluminum sheathing facility, should defendants' efforts to divest either property fail, to ensure a successful divestiture, the proposed Final Judgment provides that the entire Burlington facility be made available for sale by the trustee. The United States is confident that the entire Burlington facility could be sold to a viable purchaser that would continue to compete in the manufacture and sale of aluminum sheathing in the United States.

The divestiture provisions of the proposed Final Judgment will eliminate the anticompetitive effects of the acquisition in the manufacture and sale of coiled extruded aluminum tubing used in the formation of high frequency communications cables in the United States.

IV. Remedies Available to Potential Private Litigants

Section 4 of the Clayton Act (15 U.S.C. 15) provides that any person who has been injured as a result of conduct prohibited by the antitrust laws may bring suit in federal court to recover three times the damages the person has suffered, as well as costs and reasonable attorneys' fees. Entry of the proposed Final Judgment will neither impair nor assist the bringing of any private antitrust damage action. Under the provisions of Section 5(a) of the Clayton Act (15 U.S.C. 16(a)), the proposed Final Judgment has no *prima facie* effect in any subsequent private lawsuit that may be brought against the defendants.

V. Procedures Available for Modification of the Proposed Final Judgment

The United States and the defendants have stipulated that the proposed Final Judgment may be entered by the Court after compliance with the provisions of the APPA, provided that the United States has not withdrawn its consent. The APPA conditions entry upon the Court's determination that the proposed Final Judgment is in the public interest.

The APPA provides a period of at least sixty days preceding the effective date of the proposed Final Judgment within which any person may submit to the United States written comments regarding the proposed Final Judgment. Any person who wishes to comment

should do so within sixty days of the date of publication of this Competitive Impact Statement in the **Federal Register**, or the last date of publication in a newspaper of the summary of this Competitive Impact Statement, whichever is later. All comments received during this period will be considered by the Department of Justice, which remains free to withdraw its consent to the proposed Final Judgment at any time prior to the Court's entry of judgment. The comments and the response of the United States will be filed with the Court and published in the **Federal Register**.

Written comments should be submitted to: Maribeth Petrizzi, Chief, Litigation II Section, Antitrust Division, United States Department of Justice, 450 Fifth Street, NW., Suite 8700, Washington, DC 20530.

The proposed Final Judgment provides that the Court retains jurisdiction over this action, and the parties may apply to the Court for any order necessary or appropriate for the modification, interpretation, or enforcement of the Final Judgment.

VI. Alternatives to the Proposed Final Judgment

The United States considered, as an alternative to the proposed Final Judgment, a full trial on the merits against the defendants. The United States could have commenced litigation and sought a judicial order enjoining the acquisition of Indalex by Sapa. The United States is satisfied that the divestiture and other relief described in the proposed Final Judgment will remedy the competitive concern alleged in its Complaint without causing unnecessary harm to the creditors and employees of Indalex. The relief contained in the proposed Final Judgment would achieve substantially all of the relief that the United States would have obtained through litigation, but allow the overall transaction to close promptly to the benefit of Indalex's creditors and employees, while avoiding the time, expense and uncertainty of a full trial on the merits of the Complaint.

VII. Standard of Review Under the APPA for the Proposed Final Judgment

The Clayton Act, as amended by the APPA, requires that proposed consent judgments in antitrust cases brought by the United States be subject to a sixty-day comment period, after which the Court shall determine whether entry of the proposed Final Judgment "is in the public interest." 15 U.S.C. 16(e)(1). In making that determination, the Court shall consider:

(A) The competitive impact of such judgment, including termination of alleged violations, provisions for enforcement and modification, duration or relief sought, anticipated effects of alternative remedies actually considered, whether its terms are ambiguous, and any other competitive considerations bearing upon the adequacy of such judgment that the court deems necessary to a determination of whether the consent judgment is in the public interest; and

(B) The impact of entry of such judgment upon competition in the relevant market or markets, upon the public generally and individuals alleging specific injury from the violations set forth in the complaint including consideration of the public benefit, if any, to be derived from a determination of the issues at trial.

15 U.S.C. 16(e)(1)(A) & (B). In considering these statutory factors, the court's inquiry is necessarily a limited one as the government is entitled to "broad discretion to settle with the defendant within the reaches of the public interest." *United States v. Microsoft Corp.*, 56 F.3d 1448, 1461 (D.C. Cir. 1995); see generally *United States v. SBC Commc'ns, Inc.*, 489 F. Supp. 2d 1 (D.D.C. 2007) (assessing public interest standard under the Tunney Act).¹

As the United States Court of Appeals for the District of Columbia Circuit has held, under the APPA a court considers, among other things, the relationship between the remedy secured and the specific allegations set forth in the government's complaint, whether the decree is sufficiently clear, whether enforcement mechanisms are sufficient, and whether the decree may positively harm third parties. See *Microsoft*, 56 F.3d at 1458–62. With respect to the adequacy of the relief secured by the decree, a court may not "engage in an unrestricted evaluation of what relief would best serve the public." *United States v. BNS, Inc.*, 858 F.2d 456, 462 (9th Cir. 1988) (citing *United States v. Bechtel Corp.*, 648 F.2d 660, 666 (9th Cir. 1981)); see also *Microsoft*, 56 F.3d at 1460–62. Courts have held that:

[t]he balancing of competing social and political interests affected by a proposed antitrust consent decree must be left, in the first instance, to the discretion of the Attorney General. The court's role in protecting the public interest is one of insuring that the government has not breached its duty to the public in consenting

to the decree. The court is required to determine not whether a particular decree is the one that will best serve society, but whether the settlement is "within the reaches of the public interest." More elaborate requirements might undermine the effectiveness of antitrust enforcement by consent decree.

Bechtel, 648 F.2d at 666 (emphasis added) (citations omitted).² In making its public interest determination, a district court "must accord deference to the government's predictions about the efficacy of its remedies, and may not require that the remedies perfectly match the alleged violations." *SBC Commc'ns*, 489 F. Supp. 2d at 17; see also *Microsoft*, 56 F.3d at 1461 (noting the need for courts to be "deferential to the government's predictions as to the effect of the proposed remedies"); *United States v. Archer-Daniels-Midland Co.*, 272 F. Supp. 2d 1, 6 (D.D.C. 2003) (noting that the court should grant due respect to the United States' prediction as to the effect of the proposed remedies, its perception of the market structure, and its views of the nature of the case).

Court approval of a final judgment requires a standard that is more flexible and less strict than the standard required for a finding of liability. "[A] proposed decree must be approved even if it falls short of the remedy the court would impose on its own, as long as it falls within the range of acceptability or is 'within the reaches of public interest.'" *United States v. Am. Tel. & Tel. Co.*, 552 F. Supp. 131, 151 (D.D.C. 1982) (citations omitted) (quoting *United States v. Gillette Co.*, 406 F. Supp. 713, 716 (D. Mass. 1975)), *aff'd sub nom. Maryland v. United States*, 460 U.S. 1001 (1983); see also *United States v. Alcan Aluminum Ltd.*, 605 F. Supp. 619, 622 (W.D. Ky. 1985) (approving the consent decree even though the court would have imposed a greater remedy). To meet this standard, the United States "need only provide a factual basis for concluding that the settlements are reasonably adequate remedies for the alleged harms. *SBC Commc'ns*, 489 F. Supp. 2d at 17.

Moreover, the court's role under the APPA is limited to reviewing the remedy in relationship to the violations that the United States has alleged in its

Complaint, and does not authorize the Court to "construct [its] own hypothetical case and then evaluate the decree against that case." *Microsoft*, 56 F.3d at 1459. Because the "court's authority to review the decree depends entirely on the government's exercising its prosecutorial discretion by bringing a case in the first place," it follows that "the court is only authorized to review the decree itself," and not to "effectively redraft the complaint" to inquire into other matters that the United States did not pursue. *Id.* at 1459–60. As this Court recently confirmed in *SBC Commc'ns*, courts "cannot look beyond the complaint in making the public interest determination unless the complaint is drafted so narrowly as to make a mockery of judicial power." *SBC Commc'ns*, 489 F. Supp. 2d at 15. In its 2004 amendments, Congress made clear its intent to preserve the practical benefits of utilizing consent decrees in antitrust enforcement, adding the unambiguous instruction that "[n]othing in this section shall be construed to require the court to conduct an evidentiary hearing or to require the court to permit anyone to intervene." 15 U.S.C. 16(e)(2). The language wrote into the statute what Congress intended when it enacted the Tunney Act in 1974, as Senator Tunney explained: "[t]he court is nowhere compelled to go to trial or to engage in extended proceedings which might have the effect of vitiating the benefits of prompt and less costly settlement through the consent decree process." 119 Cong. Rec. 24,598 (1973) (statement of Senator Tunney). Rather, the procedure for the public interest determination is left to the discretion of the court, with the recognition that the court's "scope of review remains sharply proscribed by precedent and the nature of Tunney Act proceedings." *SBC Commc'ns*, 489 F. Supp. 2d at 11.³

VIII. Determinative Documents

There are no determinative materials or documents within the meaning of the

³ See *United States v. Enova Corp.*, 107 F. Supp. 2d 10, 17 (D.D.C. 2000) (noting that the "Tunney Act expressly allows the court to make its public interest determination on the basis of the competitive impact statement and response to comments alone"); *United States v. Mid-Am. Dairymen, Inc.*, 1977-1 Trade Cas. (CCH) ¶ 61,508, at 71,980 (W.D. Mo. 1977) ("Absent a showing of corrupt failure of the government to discharge its duty, the Court, in making its public interest finding, should * * * carefully consider the explanations of the government in the competitive impact statement and its responses to comments in order to determine whether those explanations are reasonable under the circumstances."); S. Rep. No. 93-298, 93d Cong., 1st Sess., at 6 (1973) ("Where the public interest can be meaningfully evaluated simply on the basis of briefs and oral arguments, that is the approach that should be utilized.").

¹ The 2004 amendments substituted "shall" for "may" in directing relevant factors to the court to consider and amended the list of factors to focus on competitive considerations and to address potentially ambiguous judgment terms. Compare 15 U.S.C. 16(e) (2004), with 15 U.S.C. 16(e)(1) (2006); see also *SBC Commc'ns*, 489 F. Supp. 2d at 11 (concluding that the 2004 amendments "effected minimal changes" to Tunney Act review).

² Cf. *BNS*, 858 F.2d at 463 (holding that the court's "ultimate authority under the [APPA] is limited to approving or disapproving the consent decree"); *Gillette*, 406 F. Supp. at 716 (noting that, in this way, the court is constrained to "look at the overall picture not hypercritically, nor with a microscope, but with an artist's reducing glass"). See generally *Microsoft*, 56 F.3d at 1461 (discussing whether "the remedies [obtained in the decree are] so inconsonant with the allegations charged as to fall outside of the 'reaches of the public interest'").

APPA that were considered by the United States in formulating the proposed Final Judgment.

Dated: July 30, 2009.

Respectfully submitted.

John F. Greaney, Suzanne Morris,
Bar No. 450208,

Dando B. Cellini,
Warren A. Rosborough IV,
Bar No. 495063.

Attorneys, U.S. Department of Justice,
Antitrust Division, Lit II Section, 450 Fifth
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20530, 202-305-9965.

[FR Doc. E9-19987 Filed 8-19-09; 8:45 am]

BILLING CODE P

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Emergency Review: Comment Request

August 14, 2009.

The Department of Labor has submitted the following information collection request (ICR), utilizing emergency review procedures, to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104-13, 44 U.S.C. Chapter 35) and 5 CFR 1320.13. OMB approval has been requested by August 24, 2009. A copy of this ICR, with applicable supporting documentation; including among other things a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained from the RegInfo.gov Web site at <http://www.reginfo.gov/public/do/PRAmain> or by contacting Darrin King on 202-693-4129 (this is not a toll-free number)/e-mail: DOL_PRA_PUBLIC@dol.gov. Interested parties are encouraged to send comments to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for the Department of Labor—Employment and Training Administration (ETA), Office of Management and Budget, Room 10235, Washington, DC 20503, Telephone: 202-395-7316/Fax: 202-395-5806 (these are not toll-free numbers), E-mail: OIRA_submission@omb.eop.gov. To ensure appropriate consideration, please submit comments by no later than August 21, 2009. Please note, interested parties will be provided with an additional opportunity to comment when this collection of information is resubmitted to OMB under standard clearance procedures.

The OMB 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.

Agency: Employment and Training Administration.

Type of Review: Revision of a current approved collection.

Title of Collection: Financial and Program Reporting and Performance Standards System for Indian and Native American Programs Under Title I, Section 166 of the Workforce Investment Act (WIA).

OMB Control Number: 1205-0422.

Frequency of Collection: Monthly and quarterly collection.

Affected Public: WIA, Section 166, Indian and Native American grant recipients.

Total Estimated Number of Respondents: 127.

Total Estimated Annual Burden Hours: 90,262.

Total Estimated Annual Costs Burden (does not include hourly costs): \$0.

Description: The American Recovery and Reinvestment Act of 2009 (The Recovery Act) was signed into law by President Obama on February 17, 2009. To record the impact of the Recovery Act resources, more current information on participants and the services received is essential. Therefore, to obtain a more robust look at participants and services provided with the additional Recovery Act resources, the Employment and Training Administration (ETA) proposes to revise the current youth report to add additional reporting elements. This new report adds 9 additional data elements pertaining to Recovery Act participants and 5 additional data elements unrelated to the Recovery Act. In addition, the frequency of reporting for Recovery Act Participants will be monthly and the frequency of reporting for "regular" WIA, youth participants will increase to quarterly.

Why Are We Requesting Emergency Processing?

This collection comprises a participant and performance reporting strategy that will provide a more robust, "real time" view of the impact of the Recovery Act funds, providing greater information on levels of program participation, and provide more information about the characteristics of the participants served, and the types of services provided. The approval of this request is necessary to allow ETA to report performance accountability information immediately on the effective use of Recovery Act funds already received by Native American grantees. With these monthly reports more current information will be available on the number of Native American youth served with Recovery Act funds and the outcomes they achieved.

Darrin A. King,

Departmental Clearance Officer.

[FR Doc. E9-19965 Filed 8-19-09; 8:45 am]

BILLING CODE 4510-FN-P

DEPARTMENT OF LABOR

Comment Request for Information Collection for the INAP and SCSEP Grant Planning Guidance Training and Employment Guidance Letters (TEGLs), OMB Control No. 1205-0472, Extension Without Changes

AGENCY: Employment and Training Administration, Department of Labor.

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) [44 U.S.C. 3506(c)(2)(A)]. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Employment and Training Administration is soliciting comments concerning the collection of data about the Senior Community Service Employment Program (SCSEP) and Indian and Native American Program (INAP), expiring October 31, 2009. The

comments concern the fact that in February of 2009, SCSEP and INAP received additional funds authorized by Title VIII of section A of the American Recovery and Reinvestment Act (ARRA). This notice utilizes standard clearance procedures in accordance with the Paperwork Reduction Act of 1995 and 5 CFR 1320.12. This information collection follows an emergency review that was conducted in accordance with the Paperwork Reduction Act of 1995 and 5 CFR 1320.13. The submission for OMB emergency review was published in the **Federal Register** on March 26, 2009, see 74 FR 13230. OMB approved the emergency clearance on April 13, 2009. A copy of this ICR can be obtained from the *RegInfo.gov* Web site at <http://www.reginfo.gov/public/do/PRAMain>.

DATES: Written comments must be submitted to the office listed in the addressee's section below on or before October 19, 2009.

ADDRESSES: Submit written comments to Alexandra Kielty, Room S-4209 Employment and Training Administration, 200 Constitution Avenue, NW., Washington, DC 20210. Telephone number: 202-693-3730 (this is not a toll-free number). Fax: 202-693-3587. *E-mail:* kielty.alexandra@dol.gov.

SUPPLEMENTARY INFORMATION:

I. Background

The Employment and Training Administration (ETA) of the Department of Labor (DOL or the Department) occasionally solicits applications for grants by issuing a "Solicitation for Grant Applications" or "SGA." These are usually awarded for multi-year periods. In the non-competition years, grantees are required to submit a similar but simplified set of documents to ETA in order to ensure the continuation of their grants. Grantees are generally required to submit a two-part application. The first part of an ETA Planning Guidance TEGL consists of submitting the Standard Form 424 (SF-424), "Application for Federal Assistance", the SF-424A Budget Narrative. The second part of the Planning Guidance usually requires a statement of work re-affirming the applicant's capabilities to meet performance criteria, along with certain certifications and assurances.

On an emergency basis OMB approved TEGLs to be issued by these programs in order to obligate the Recovery Act funds by March 19, 2009, as directed by the Congress and the President.

The Indian and Native American Program provides employment and

training grants to Indian tribes, non-profit tribal organizations, Alaska Native entities and Native Hawaiian organizations for the purpose of providing employment and training services to low income and unemployed Native Americans. The program is authorized under section 166 of the Workforce Investment Act (WIA). The program's services include a Comprehensive Services ("adult") Program (CSP), which serves Indians or Native Americans (as determined by the individual grantee) who are ages 14 and above and who are unemployed, underemployed, or low-income individuals. The INA program also administers the Supplemental Youth Services Program (SYSP), which serves Indian and Native American youth between the ages of 14 and 24 who reside on or near a reservation (or in Alaska, Hawaii, or Oklahoma), and who are low-income or have other barriers to employment.

Originally authorized by the Older Americans Act of 1965, the Senior Community Service Employment Program (SCSEP) is designed to foster individual economic self-sufficiency and promote useful opportunities in community service employment for unemployed low-income persons (particularly persons who have poor employment prospects) who are age 55 or older, and to increase the number of persons who may enjoy the benefits of unsubsidized employment in both the public and private sectors.

II. Review Focus

The Department of Labor 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.

III. Current Actions

Type of Review: Extension without changes.

Title: U.S. Department of Labor INAP AND SCSEP Grant Planning Guidance Training and Employment Guidance Letters (TEGLs).

OMB Number: 1205-0472.

Affected Public: 145 INA grantees and 74 SCSEP grantees.

Forms: Standard Form 424 (SF-424), "Application for Federal Assistance"; SF-424A Budget Narrative.

Total Respondents: 219.

Frequency: Annual.

Total Responses: 219.

Average Time per Response: 16 hours.
Estimated Total Burden Hours: 3,504 hours.

Total Burden Cost (operating/maintaining): \$99,514.

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

Signed at Washington, DC, this 11th day of August 2009.

Jane Oates,

Assistant Secretary.

[FR Doc. E9-20003 Filed 8-19-09; 8:45 am]

BILLING CODE 4510-FN-P

DEPARTMENT OF LABOR

Employment Standards Administration

Proposed Extension of the Approval of Information Collection Requirements

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) [44 U.S.C. 3506(c)(2)(A)]. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Employment Standards Administration is soliciting comments concerning its proposal to extend the Office of Management and Budget (OMB) approval of the Information Collection:

Request for Employment Information (CA-1027). A copy of the proposed information collection request can be obtained by contacting the office listed below in the **ADDRESSES** section of this Notice.

DATES: Written comments must be submitted to the office listed in the **ADDRESSES** section below on or before October 19, 2009.

ADDRESSES: Mr. Steven D. Lawrence, U.S. Department of Labor, 200 Constitution Ave., NW., Room S-3201, Washington, DC 20210, telephone (202) 693-0292, fax (202) 693-1451, e-mail Lawrence.Steven@dol.gov. Please use only one method of transmission for comments (mail, fax, or E-mail).

SUPPLEMENTARY INFORMATION:

I. Background: Payment of compensation for partial disability to injured Federal workers is required by 5 U.S.C. 8106. That section also requires the Office of Workers' Compensation Programs (OWCP) to obtain information regarding a claimant's earnings during a period of eligibility to compensation. The CA-1027, Request for Employment Information, is the form used to obtain information for an individual who is employed by a private employer. This information is used to determine the claimant's entitlement to compensation benefits. This information collection is currently approved for use through March 31, 2010.

II. Review Focus: The Department of Labor is particularly interested in comments that:

- 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.

III. Current Actions: The Department of Labor seeks extension of approval to collect this information in order to determine a claimant's eligibility for compensation benefits.

Type of Review: Extension.

Agency: Employment Standards Administration.

Title: Request for Employment Information.

OMB Number: 1215-0105.

Agency Number: CA-1027.

Affected Public: Business or other for-profit.

Frequency: On Occasion.

Total Respondents: 500.

Total Annual Responses: 500.

Estimated Time per Response: 15 minutes.

Estimated Total Burden Hours: 125.

Total Burden Cost (capital/startup): \$0.

Total Burden Cost (operating/maintenance): \$0.

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

Dated: August 13, 2009.

Steven D. Lawrence,

Acting Chief, Branch of Management Review and Internal Control, Division of Financial Management, Office of Management, Administration and Planning, Employment Standards Administration.

[FR Doc. E9-20007 Filed 8-19-09; 8:45 am]

BILLING CODE 4510-CH-P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice: 09-073]

Notice of Information Collection

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Notice of information collection.

SUMMARY: The National Aeronautics and Space Administration, 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 (Pub. L. 104-13, 44 U.S.C. 3506(c)(2)(A)).

DATES: All comments should be submitted within 30 calendar days from the date of this publication.

ADDRESSES: All comments should be addressed to Jasmeet Seehra, Desk Officer for NASA; Office of Information and Regulatory Affairs; Office of Management and Budget; Room 10236; New Executive Office Building; Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or

copies of the information collection instrument(s) and instructions should be directed to Lori Parker, NASA PRA Clearance Officer, NASA Headquarters, 300 E Street SW., JF000, Washington, DC 20546, (202) 358-1350, Lori.Parker-1@nasa.gov.

SUPPLEMENTARY INFORMATION:

I. Abstract

This collection provides a means by which NASA employees and contractors can voluntarily and confidentially report any safety concerns or hazards pertaining to NASA programs, projects, or operations.

II. Method of Collection

The current, paper-based reporting system ensures the protection of a submitters anonymity and secure submission of the report by way of the U.S. Postal Service.

III. Data

Title: NASA Safety Reporting System.

OMB Number: 2700-0063.

Type of review: Extension of currently approved collection.

Affected Public: Federal Government; Business or other for-profit.

Number of Respondents: 75.

Responses per Respondent: 1.

Annual Responses: 75.

Hours per Request: 15 min.

Annual Burden Hours: 19.

Frequency of Report: As needed.

IV. Request for Comments

Comments are invited on: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of NASA, including whether the information collected has practical utility; (2) the accuracy of NASA's estimate of the burden (including hours and cost) of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including automated collection techniques or the use of other forms of information technology.

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

Lori Parker,

NASA PRA Clearance Officer.

[FR Doc. E9-19960 Filed 8-19-09; 8:45 am]

BILLING CODE P

NATIONAL SCIENCE FOUNDATION**Responsible Conduct of Research**

AGENCY: National Science Foundation (NSF).

ACTION: NSF's Implementation of Section 7009 of the America COMPETES Act.

SUMMARY: The National Science Foundation (NSF) is announcing its implementation of Section 7009 of the America Creating Opportunities to Meaningfully Promote Excellence in Technology, Education, and Science (COMPETES) Act (42 U.S.C. 1862o-1). This section of the Act requires that "each institution that applies for financial assistance from the Foundation for science and engineering research or education describe in its grant proposal a plan to provide appropriate training and oversight in the responsible and ethical conduct of research to undergraduate students, graduate students, and postdoctoral researchers participating in the proposed research project."

SUPPLEMENTARY INFORMATION: The responsible and ethical conduct of research (RCR) is critical for excellence, as well as public trust, in science and engineering. Consequently, education in RCR is considered essential in the preparation of future scientists and engineers. The COMPETES Act focuses public attention on the importance of the national research community's enduring commitment and broader efforts to provide RCR training as an integral part of the preparation and long-term professional development of current and future generations of scientists and engineers. A wide array of information exists to help inform RCR training. For example, many professional societies as well as governmental licensing authorities for professional scientists and engineers have adopted policies or best practices that might be usefully considered. In addition, research is illuminating existing practices surrounding ethical issues, and providing an evaluation of pedagogical innovations in ethics education. A recent NSF-funded workshop entitled "Ethics Education: What's Been Learned? What Should be Done?" was held by the National Academies of Science & Engineering (NAE). Information about the workshop, as well as additional resources, are available at: <http://www.nae.edu/nae/engethicscen.nsf/weblinks/NKAL-7LHM86?OpenDocument>. The workshop report is available at the NAE's Center for Engineering, Ethics and Society Web site: <http://>

www.nae.edu/?ID=14646. NSF is committed to continue its funding of research in this important area through programs such as Ethics Education in Science and Engineering: http://www.nsf.gov/funding/pgm_summ.jsp?pims_id=13338&org=SES&from=home and to promote the development and implementation of effective practices through its education and training programs. The Foundation also will continue to explore other mechanisms to support the academic community's efforts in providing RCR training.

Implementation Plan: Effective January 4, 2010, NSF will require that, at the time of proposal submission to NSF, a proposing institution's Authorized Organizational Representative certify that the institution has a plan to provide appropriate training and oversight in the responsible and ethical conduct of research to undergraduates, graduate students, and postdoctoral researchers who will be supported by NSF to conduct research. While training plans are not required to be included in proposals submitted to NSF, institutions are advised that they are subject to review upon request. NSF will formally implement the new RCR requirement via an update to the NSF Proposal and Award Policies and Procedures Guide (PAPPG). It is anticipated that the revisions to the PAPPG will be issued on October 1, 2009. NSF also will modify its standard award conditions to clearly stipulate that institutions are responsible for verifying that undergraduate students, graduate students, and postdoctoral researchers supported by NSF to conduct research have received RCR training. In addition, NSF will support the development of an on-line RCR resource containing research findings, pedagogical materials, and promising practices regarding RCR in science and engineering. The development and evolution of the ongoing online RCR resource will be informed by the research communities that NSF supports, and it will serve as a living resource of multimedia materials that may be used to train current and future generations of scientists and engineers in RCR.

Discussion of Comments: One hundred eighty-eight (188) comments were received in response to the February 26, 2009 **Federal Register** notice (74 FR 8818) requesting comments on NSF's proposed plan. The comment request included a series of questions to help guide the comments:

- What challenges do institutions face in meeting the new RCR requirement?

- What role should Principal Investigators play in meeting NSF's RCR requirement?

- There are likely to be differences in the RCR plans that institutions develop to respond to this new requirement. What are the pros and cons of exploring a diversity of approaches?

- How might online resources be most effective in assisting with training students and postdocs in the responsible and ethical conduct of research?

- Discuss possible approaches to verifying that the requisite RCR training has been provided.

Following the close of the comment period, NSF reviewed and responded to the comments. A summary of the comments and NSF's responses are below:

Comment 1: 22 comments were received noting general challenges that institutions will face in providing education and training that meet the needs of a diverse community.

Response: NSF recognizes that many issues must be considered in developing effective content and training mechanisms and that universities and research institutions will need flexibility to develop and deliver effective training that is tailored to their student/postdoc needs.

Comment 2: 19 respondents commented on the resource burden the RCR training requirement will place on institutions. It was specifically suggested that the 26 percent cap on Facilities and Administration costs currently contained in OMB Circular A-21, Cost Principles for Educational Institutions (2 CFR Part 220), be lifted. (See http://ecfr.gpoaccess.gov/cgi/t/text?text-idx?c=ecfr&sid=c8bb5a0992df470805b85610c02e77ec&tpl=/ecfrbrowse/Title02/2cfr220_main_02.tpl.)

Response: The 26 percent cap is specified in OMB Circular A-21, and NSF, therefore, does not have the authority or independent discretion to change it.

NSF, however, has supported, and will continue to support, research on RCR training to help inform the development of training programs through programs such as Ethics Education in Science and Engineering. NSF will also continue to promote the development and implementation of effective practices through its education and training programs such as the Integrative Graduate Research and Education Traineeship Program. NSF has also funded two beta sites (NSF Award 0936857, <http://www.umass.edu/sts/digitallibrary/>, and NSF Award 0936865, <http://www.onlineethics.org/>

[CMS/about/UserGuide/18848.aspx](#)) to begin to provide an interactive community online resource on ethics education in science and engineering. These beta sites will provide a foundation for an ongoing on-line RCR resource in ethics education in science and engineering that NSF plans to award through open competition. NSF will also continue to explore other potential methods to support the academic community's efforts in providing RCR training.

Comment 3: Three respondents inquired whether the institution was permitted to include the costs associated with RCR training as direct costs on NSF awards.

Response: Most institutions have included training expenses in their Facilities and Administrative (F&A) rate pool and they therefore cannot charge the costs directly to proposals/awards per OMB Circular A-21, Section F, Identification and Assignment of F&A costs. This is not a decision that program officials and principal investigator(s) can make on a proposal-by-proposal basis. Rather, the cognizant agency and institution must determine the treatment of these costs during the process of negotiating the institution's indirect cost rate. These costs effect the development and oversight of the Facilities and Administrative (F&A) rate and must be in compliance with the OMB cost principles. Accordingly, the institution must involve its cognizant agency along with NSF in this decision and provide information of their current policies and procedures along with its disclosed practices per its Disclosure Statement.

Comment 4: 35 respondents requested clarity or provided input on whether or not NSF should provide guidance on content for training in responsible and ethical research conduct.

Response: NSF understands that some institutions would like NSF guidance regarding appropriate content for training in RCR. However, NSF does not intend to issue NSF-specified standards and recognizes that training needs may vary depending on specific circumstances of research or the needs of students intending to pursue careers in a variety of science and engineering settings after completing their education. Therefore, it is the responsibility of each institution to determine both the content and the delivery method for the training that will meet the institution's particular needs for RCR training in all areas at that institution for which NSF provides support. Furthermore, each institution must decide if development of content or pedagogical method is required, or if

appropriate content and training can be provided from some existing sources or capabilities, and take appropriate action to implement its decisions.

NSF does support the development of resources and forums for the research community to discuss the most appropriate content in ethical research training and to develop shared guidelines. For example, NSF funded a workshop held at the National Academies of Science and Engineering in August 2008 entitled, "Ethics Education: What Have We Learned? What Should be Done?" The workshop report is available at the NAE's Center for Engineering, Ethics and Society Web site: <http://www.nae.edu/?ID=14646>. NSF has also funded two beta sites (NSF Award 0936857, <http://www.umass.edu/sts/digitallibrary/>, and NSF Award 0936865, <http://www.onlineethics.org/CMS/about/UserGuide/18848.aspx>) to begin to provide an interactive community location and searchable clearinghouse of resources on ethics education in science and engineering. These beta sites will provide a foundation for an ongoing on-line RCR resource in ethics education in science and engineering that NSF plans to award through open competition. These kinds of resources give institutions places to find materials and standard approaches to ethics education that research communities have already developed.

Comment 5: Three comments noted the challenge with identifying and tracking postdocs and students to receive RCR training and suggested that for tracking purposes it would be easier to extend the training requirement to all students.

Response: NSF is requiring RCR training and tracking only for those postdocs and students who receive support to conduct research on NSF grants. However, NSF recognizes that all student and postdocs would benefit from RCR training and that institutions may decide to extend the training beyond NSF-supported students and postdocs at their discretion.

Comment 6: 24 respondents provided input in response to NSF's question on the role of the Principal Investigators in meeting NSF's RCR requirement.

Response: The institution is responsible for certification that the RCR training plan is in place and verification that the students and postdocs have completed the RCR training. The role of a PI in meeting these institution responsibilities is determined by the institution.

Comment 7: One respondent noted that NSF should encourage PIs to

include RCR training in annual and final reports.

Response: NSF will not require PIs to report on RCR training in annual and final reports because the requirement for verifying training will be part of the standard award conditions and institutions will decide how they will track completion of training.

Comment 8: 15 respondents noted that an NSF-supported online RCR resource will be an invaluable resource for materials, research and innovative teaching and delivery methods.

Response: NSF is supporting two beta sites that provide resources on ethics education in science and engineering. These sites will serve as a foundation for an open competition for an ongoing on-line RCR resource on ethics education in science and engineering. This resource has the potential to provide a centralized location for information that can be used to help institutions and PIs meet their own particular needs. The resource will contain information the community develops including research findings, pedagogical materials, and promising practices regarding the ethical and responsible conduct of research in science and engineering. The development and evolution of the ongoing on-line RCR resource will be informed by the research communities that NSF supports, and will serve as a living resource of multimedia materials that may be used to train current and future generations of scientists and engineers.

Comment 9: 11 respondents noted that although online training modules may teach rules, policies and guidelines, they should be complemented by more interactive, mentored-discussion of ethical principles and evaluation of case studies.

Response: It will be up to each institution to determine how best to ensure effective and appropriate education in responsible research practices.

NSF funds innovative research and education projects in ethics education in science and engineering including the development of resources and forums for the research community to discuss the most appropriate content in ethical research training and to develop shared guidelines. For example, NSF funded a workshop held at the national Academies of Science and Engineering in August 2008 entitled, "Ethics Education: What Have We Learned? What Should be Done?" The workshop report is available at the NAE's Center for Engineering, Ethics and Society's

Web site: <http://www.nae.edu/?ID=14646>.

Institutions are encouraged to visit the two beta sites NSF is supporting that provide resources on ethics education in science and engineering. These sites will serve as a foundation for an open competition for an ongoing on-line RCR resource on ethics education in science and engineering. This resource has the potential to provide a centralized location for information that can be used to help institutions and PIs meet their own particular needs. The resource will contain whatever information resources the community chooses to develop and share including research findings, pedagogical materials, and best practices. It will be up to each institution and discipline to determine how best to ensure effective and appropriate education in responsible research practices.

Comment 10: Six respondents noted current online resources that might be used with the online resource.

Response: NSF will forward the recommended resources to the on-line resource beta-site for consideration.

Comment 11: 20 respondents either suggested that NSF allow institutions to develop their own systems to track and verify the delivery of the required training or provided potential approaches to accomplish this.

Response: NSF recognizes that there are many ways to achieve the training objectives of RCR, each with strengths and potential pitfalls. NSF intends to allow institutions to meet the verification requirement using appropriate systems of their choosing.

Comment 12: One commenter suggested that NSF's proposed implementation plan will not be effective because it does not include systems to mitigate against unethical behavior.

Response: We note that the National Science and Technology Council has developed a Federal policy on research misconduct, which authorizes agencies to impose administrative actions on those who engage in research misconduct. See NSF's implementation at 45 CFR Part 689. The NSF Office of the Inspector General investigates reports of research misconduct and refers the results of their findings to NSF management for appropriate action.

Institutions involved in international collaborations might find materials provided by the Organisation for Economic Co-operation and Development (OECD) "Research Integrity: preventing misconduct and dealing with allegations" useful. See: <http://tinyurl.com/l76p3b>.

Comment 13: Six comments suggested that reviewers of proposals and other faculty members should be required to take RCR training. These comments appear to be aimed at the issue of plagiarism when reviewing proposals. Another commenter suggested that only Ph.D. students should be required to take such training.

Response: Section 7009 of the COMPETES Act mandates that institutions applying for financial assistance from the Foundation provide such training for undergraduate students, graduate students, and postdoctoral researchers participating in the proposed research project. Thus, reviewers and other faculty members are not required to take such training, although undergraduate and graduate students are subject to such a requirement. As to faculty members, institutions, at their discretion, may expand the scope of such training to include other categories of individuals not covered by Section 7009 of the COMPETES Act. As to reviewers, NSF has a longstanding policy of providing guidance and instructions to our reviewer community on the confidentiality of information, which includes plagiarism, contained in proposals and the treatment of conflicts-of-interest.

Comment 14: Two respondents suggested alternate mechanisms for an institution to inform NSF that it has an appropriate training plan. One commenter suggested that NSF require investigators to include a short summary of their institutions' training plans in the body of the proposal. Another commenter suggested that, in lieu of an institution providing a certification with each proposal, an institution should only have to submit such a certification once and, NSF should simply compile a list of institutions that have provided the requisite certification.

Response: Although these alternative mechanisms have merit, NSF has chosen the implementation approach that is consistent with how NSF has had institutions certify their compliance with statutory requirements such as Non-discrimination, Conflict of Interest, Drug Free Workplace, etc.

Comment 15: One respondent recommended that NSF make the development of conceptual models and practical assessment of the effects of RCR education a research priority.

Response: Although not an explicit research priority, NSF may support proposals that address these topics. For example, proposals for the development of conceptual models and assessment methods for RCR may be appropriate for

submission to programs in the Directorate for Education and Human Resources. Innovative research on ethics and values in science and engineering may be appropriate for submission to programs in the Social, Behavioral and Economic Sciences Directorate. NSF expects that such proposals would compete for resources along with other important educational and research activities.

Comment 16: NSF received 19 general comments. These include: (a) comments expressing support for the requirement or support for the value of RCR training in general; and (b) comments not related to the RCR requirement.

Response: These comments provide valuable perspectives on RCR training. However, no NSF responses are needed for purposes of this **Federal Register** Notice.

Dated: August 14, 2009.

Suzanne H. Plimpton,

Reports Clearance Officer, National Science Foundation.

[FR Doc. E9-19930 Filed 8-19-09; 8:45 am]

BILLING CODE 7555-01-P

NUCLEAR REGULATORY COMMISSION

[NRC-2009-0276; NRC-2009-0275; NRC-2009-0274; NRC-2009-0277]

Draft Regulatory Guides: Granting Extension of Comment Period

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of Granting of Request to Extend the Comment Period of Draft Regulatory Guide (DG)-1221, "Control of Stainless Steel Weld Cladding of Low-Alloy Steel Components;" DG-1222, "Control of Preheat Temperature for Welding of Low-Alloy Steel;" DG-1223, "Control of Electroslag Weld Properties;" and DG-1224, "Control of the Processing and Use of Stainless Steel."

FOR FURTHER INFORMATION CONTACT: Jeffrey Hixon, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, telephone: (301) 251-7639 or e-mail to Jeffrey.Hixon@nrc.gov.

SUPPLEMENTARY INFORMATION:

I. Introduction

The U.S. Nuclear Regulatory Commission (NRC) issued for public comment DG-1221, DG-1222, DG-1223, and DG-1224, which were published in the **Federal Register**, 74 FR 31991, 74 FR 31993, 74 FR 31993, and 74 FR 31992, respectively, on July 6, 2009. This series was developed to describe

and make available to the public such information as methods that are acceptable to the NRC staff for implementing specific parts of the NRC's regulations, techniques that the staff uses in evaluating specific problems or postulated accidents, and data that the staff needs in its review of applications for permits and licenses.

II. Further Information

The NRC staff requested receipt of comments on DG-1221, DG-1222, DG-1223, and DG-1224 by August 31, 2009. Requests for technical information about DG-1221, DG-1222, DG-1223, and DG-1224 may be directed to the NRC contact, Jeffrey Hixon at (301) 251-7639 or e-mail Jeffrey.Hixon@nrc.gov.

Electronic copies of DG-1221, DG-1222, DG-1223, and DG-1224 are available through the NRC's public Web site under Draft Regulatory Guides in the "Regulatory Guides" collection of the NRC's Electronic Reading Room at <http://www.nrc.gov/reading-rm/doc-collections/>. Electronic copies of DG-1221, DG-1222, DG-1223, and DG-1224 are also available in ADAMS (<http://www.nrc.gov/reading-rm/adams.html>), under Accession Nos. ML090750044, ML090750343, ML090750626, and ML090750744, respectively.

In addition, regulatory guides are available for inspection at the NRC's Public Document Room (PDR), which is located at 11555 Rockville Pike, Rockville, Maryland. The PDR's mailing address is USNRC PDR, Washington, DC 20555-0001. The PDR can also be reached by telephone at (301) 415-4737 or (800) 397-4205, by fax at (301) 415-3548, and by e-mail to pdr.resource@nrc.gov.

Regulatory guides are not copyrighted, and Commission approval is not required to reproduce them.

III. Request To Extend the Comment Period

Basis for the Request

The NRC received the following extension request:

In a letter, dated August 6, 2009, the Nuclear Energy Institute requested that the public review and comment period on DG-1221, DG-1222, DG-1223, and DG-1224 be extended to October 1, 2009. NEI requested a 30-day extension of the public comment period on these draft guides until October 1, 2009, to allow adequate time to complete and document their review.

Response to Request

By this action, the NRC staff is extending the comment period until October 1, 2009. Comments received

after October 1, 2009, would be considered if practical to do so but the NRC is able to ensure consideration only for comments received on or before October 1, 2009. Although a time limit is given, comments and suggestions in connection with items for inclusion in guides currently being developed or improvements in all published guides are encouraged at any time.

Comments submitted in writing or in electronic form will be made available to the public in their entirety through the NRC's Agencywide Documents Access and Management System (ADAMS).

Because your comments will not be edited to remove any identifying or contact information, the NRC cautions you against including any information in your submission that you do not want to be publicly disclosed.

The NRC requests that any party soliciting or aggregating comments received from other persons for submission to the NRC inform those persons that the NRC will not edit their comments to remove any identifying or contact information, and therefore, they should not include any information in their comments that they do not want publicly disclosed. You may submit comments by any of the following methods:

1. *Mail comments to:* Rulemaking and Directives Branch, Mail Stop: TWB-05-B01M, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001.

2. *Federal e-Rulemaking Portal:* Go to <http://www.regulations.gov> and search for documents filed under Docket ID [NRC-2009-0276, NRC-2009-0275, NRC-2009-0274 and NRC-2009-0277]. Address questions about NRC dockets to Carol Gallagher, 301-492-3668; e-mail Carol.Gallagher@nrc.gov.

3. *Fax comments to:* Rulemaking and Directives Branch, Office of Administration, U.S. Nuclear Regulatory Commission at (301) 492-3446.

Dated at Rockville, Maryland, this 11th day of August 2009.

For the Nuclear Regulatory Commission.

John N. Ridgely,

Acting Chief, Regulatory Guide Development Branch, Division of Engineering, Office of Nuclear Regulatory Research.

[FR Doc. E9-19997 Filed 8-19-09; 8:45 am]

BILLING CODE 7590-01-P

NUCLEAR REGULATORY COMMISSION

[NRC-2009-0361; Docket No. 40-8964]

Notice of Availability of Environmental Assessment and Finding of No Significant Impact for License Amendment for Receipt and Processing of Third Party Ion Exchange Resin Power Resources, Inc., Glenrock, WY

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Notice of availability.

FOR FURTHER INFORMATION CONTACT:

Douglas T. Mandeville, Project Manager, Uranium Recovery Licensing Branch, Division of Waste Management and Environmental Protection, Office of Federal and State Materials and Environmental Management Programs, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001. Telephone: (301) 415-0724; fax number: (301) 415-5369; e-mail: douglas.mandeville@nrc.gov.

SUPPLEMENTARY INFORMATION:

I. Introduction

The U.S. Nuclear Regulatory Commission (NRC) is issuing a license amendment to Material License No. SUA-1548, issued to Power Resources, Inc. (PRI), to authorize the receipt and processing of third party ion exchange resin at its *in situ* recovery (ISR) facility near Glenrock, Wyoming. NRC has prepared an Environmental Assessment (EA) in support of this amendment in accordance with the requirements of 10 CFR part 51. Based on the EA, the NRC has concluded that a Finding of No Significant Impact is appropriate. The amendment will be issued following the publication of this Notice.

II. EA Summary

The purpose of the proposed amendment is to authorize the receipt and processing of third party ion exchange resins at PRI's Smith Ranch—Highland Uranium Project facility near Glenrock, Wyoming. Specifically, PRI sought permission to accept and process 365 shipments of ion exchange resin per year from NRC licensed facilities in the State of Wyoming. This action would be performed within the currently approved processing limits of 20,000 gpm flowrate in the central processing plant and annual yellowcake production of 5.5 million pounds per year. PRI submitted the license amendment request to the NRC on June 19, 2008.

The staff has prepared the EA in support of the proposed license

amendment. The staff considered impacts to public and occupational exposures, groundwater, endangered and threatened species, historic and cultural resources, socioeconomic conditions, noise, transportation, waste management, soils, and air quality. This proposed action does not seek to increase the wellfield areas, land application area, or the currently authorized production limits. Furthermore, PRI will not open any new wellfields as a result of this licensing action, beyond those currently addressed by its license. Therefore, the staff does not expect the proposed action to impact public and occupational exposures, groundwater, endangered or threatened species, historic and cultural resources, socioeconomic conditions, and noise.

NRC staff does not expect significant environmental impacts to transportation, waste management,

soils, and air quality. The additional traffic volume of approximately 1 truck per day is relatively small compared to the existing traffic volumes on the roadways. Therefore, the additional traffic resulting from shipment of IX resin to and from SR-HUP is not expected to significantly contribute to the congestion or accident rates on these roadways. Vehicle emissions from the additional traffic are not expected to significantly contribute to the vehicle emissions on these roadways. Since PRI has committed in the license amendment request to remain below the currently approved flow rate and yellowcake production limits, the amount of liquid and solid effluents generated at the facility will remain at or below current maximum estimated levels. Therefore, the proposed action is not expected to significantly impact waste management practices at SR-HUP.

III. Finding of No Significant Impact

On the basis of the EA, NRC has concluded that there are no significant environmental impacts from the proposed amendment and has determined that there is no need to prepare an environmental impact statement.

IV. Further Information

Documents related to this action, including the application for amendment and supporting documentation, are available electronically at the NRC's Electronic Reading Room at <http://www.nrc.gov/reading-rm/adams.html>. From this site, you can access the NRC's Agencywide Documents Access and Management System (ADAMS), which provides text and image files of NRC's public documents. The ADAMS accession numbers for the documents related to this notice are:

Document title	Date	Accession No.
Smith Ranch—Highland Uranium Project License Amendment Request for Processing of Third-Party Resin.	June 19, 2008	ML081760278
Acceptance Review of Request for Approval of Processing of Third-Party Resin at the Smith-Ranch Highland Uranium Project.	July 23, 2008	ML082030638
Response to Request to Provide Additional Information Concerning Third Party Resin Bead Processing.	October 1, 2008	ML082820419
Acceptance Review of Request for Approval of Processing of Third-Party Resin at the Smith-Ranch Highland Uranium Project.	November 5, 2008	ML083040047
Final Environmental Assessment for the Third Party Processing of Ion Exchange Resin.	July 28, 2009	ML091420421

If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC's Public Document Room (PDR) Reference staff at 1-800-397-4209, 301-415-4737, or by e-mail to pdr@nrc.gov.

These documents may also be viewed electronically on the public computers located at the NRC's PDR, O 1 F21, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852. The PDR reproduction contractor will copy documents for a fee.

Dated at Rockville, Maryland, this 12th day of August 2009.

For the Nuclear Regulatory Commission.

Keith I. McConnell,

Deputy Director, Decommissioning and Uranium Recovery Licensing Directorate, Division of Waste Management and Environmental Protection, Office of Federal and State Materials and Environmental Management Programs.

[FR Doc. E9-20041 Filed 8-19-09; 8:45 am]

BILLING CODE 7590-01-P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards (ACRS) Meeting of the ACRS Subcommittee; Notice of Meeting

The ACRS U.S. Evolutionary Power Reactor (EPR) Subcommittee will hold a meeting on September 9, 2009, Commissioners' Conference Room, 11555 Rockville Pike, O1-F16 Rockville, Maryland.

The meeting will be open to public attendance, with exception of a portion that may be closed to discuss proprietary information pursuant to 5 U.S.C. 552b(c).

The agenda for the subject meeting shall be as follows:

Wednesday, September 9, 2009, 8:30 a.m.–5 p.m.

The Subcommittee will review Topical Reports concerning the EPR Design Certification Application Review. The Subcommittee will hear presentations by and hold discussions with representatives of AREVA, the NRC staff and other interested persons

regarding this matter. The Subcommittee will gather information, analyze relevant issues and facts, and formulate proposed positions and actions, as appropriate, for deliberation by the Full Committee.

Members of the public desiring to provide oral statements and/or written comments should notify the Designated Federal Official, Mr. Derek Widmayer (Telephone 301-415-7366, *E-mail: Derek.Widmayer@nrc.gov*) 5 days prior to the meeting, if possible, so that appropriate arrangements can be made. Thirty-five hard copies of each presentation or handout should be provided to the Designated Federal Official 30 minutes before the meeting. In addition, one electronic copy of each presentation should be e-mailed to the Designated Federal Official 1 day before meeting. If an electronic copy cannot be provided within this timeframe, presenters should provide the Designated Federal Official with a CD containing each presentation at least 30 minutes before the meeting. Electronic recordings will be permitted. Detailed procedures for the conduct of and participation in ACRS meetings were

published in the **Federal Register** on October 6, 2008 (73 FR 58268–58269).

Further information regarding this meeting can be obtained by contacting the Designated Federal Official between 8 a.m. and 4:15 p.m. (ET). Persons planning to attend this meeting are urged to contact the above named individual at least 2 working days prior to the meeting to be advised of any potential changes to the agenda.

Dated: August 13, 2009.

Antonio Dias,

Chief, Reactor Safety Branch B, Advisory Committee on Reactor Safeguards.

[FR Doc. E9–20014 Filed 8–19–09; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards (ACRS); Subcommittee Meeting on Planning and Procedures; Notice of Meeting

The ACRS Subcommittee on Planning and Procedures will hold a meeting on September 9, 2009, Room T2–E2, 11545 Rockville Pike, Rockville, Maryland.

The entire meeting will be open to public attendance, with the exception of a portion that may be closed pursuant to 5 U.S.C. 552b (c)(2) and (6) to discuss organizational and personnel matters that relate solely to the internal personnel rules and practices of the ACRS, and information the release of which would constitute a clearly unwarranted invasion of personal privacy.

The agenda for the subject meeting shall be as follows:

Wednesday, September 9, 2009, 12 p.m.–1 p.m.

The Subcommittee will discuss proposed ACRS activities and related matters. The Subcommittee will gather information, analyze relevant issues and facts, and formulate proposed positions and actions, as appropriate, for deliberation by the full Committee.

Members of the public desiring to provide oral statements and/or written comments should notify the Designated Federal Officer, Mr. Sam Duraiswamy, Telephone: 301–415–7364, e-mail: Sam.Duraiswamy@nrc.gov between 7:30 a.m. and 4 p.m. (ET) five days prior to the meeting, if possible, so that appropriate arrangements can be made. Thirty-five hard copies of each presentation or handout should be provided to the Designated Federal Official 30 minutes before the meeting. In addition, one electronic copy of each presentation should be emailed to the

Designated Federal Official 1 day before meeting. If an electronic copy cannot be provided within this timeframe, presenters should provide the Designated Federal Official with a CD containing each presentation at least 30 minutes before the meeting. Electronic recordings will be permitted only during those portions of the meeting that are open to the public. Detailed procedures for the conduct of and participation in ACRS meetings were published in the **Federal Register** on October 6, 2008. (73 FR 58268–58269).

Further information regarding this meeting can be obtained by contacting the Designated Federal Officer between 7:30 a.m. and 4 p.m. (ET). Persons planning to attend this meeting are urged to contact the above named individual at least two working days prior to the meeting to be advised of any potential changes in the agenda.

Dated: August 13, 2009.

Cayetano Santos,

Chief, Reactor Safety Branch A, Advisory Committee on Reactor Safeguards.

[FR Doc. E9–20017 Filed 8–19–09; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards (ACRS); Meeting of the Materials, Metallurgy, and Reactor Fuels Subcommittee; Notice of Meeting

The ACRS Subcommittee on Materials, Metallurgy, and Reactor Fuels will hold a meeting on September 24–25, 2009, 11555 Rockville Pike, O1–F16 Rockville, Maryland.

The entire meeting will be open to public attendance. The agenda for the subject meeting shall be as follows:

Thursday, September 24, 2009—8:30 a.m.–5 p.m.

Friday, September 25, 2009—8:30 a.m.–5 p.m.

The Subcommittee will review the remaining tasks to be closed in the Steam Generator Action Plan (SGAP), and the technical basis for the closure of the items. The Subcommittee will hear presentations by and hold discussions with representatives of the NRC staff and other interested persons regarding this matter. The Subcommittee will gather information, analyze relevant issues and facts, and formulate proposed positions and actions, as appropriate, for deliberation by the full Committee.

Members of the public desiring to provide oral statements and/or written comments should notify the Designated Federal Official, Christopher Brown, telephone: 301–415–7111, e-mail: Christopher.Brown@nrc.gov five days prior to the meeting, if possible, so that appropriate arrangements can be made. Thirty-five hard copies of each presentation or handout should be provided to the Designated Federal Official 30 minutes before the meeting. In addition, one electronic copy of each presentation should be e-mailed to the Designated Federal Official 1 day before meeting. If an electronic copy cannot be provided within this timeframe, presenters should provide the Designated Federal Official with a CD containing each presentation at least 30 minutes before the meeting. Electronic recordings will be permitted. Detailed procedures for the conduct of and participation in ACRS meetings were published in the **Federal Register** on October 6, 2008 (73 FR 58268–58269).

Further information regarding this meeting can be obtained by contacting the Designated Federal Official between 6:45 a.m. and 3:30 p.m. (ET). Persons planning to attend this meeting are urged to contact the above named individual at least two working days prior to the meeting to be advised of any potential changes to the agenda.

Dated: August 13, 2009.

Cayetano Santos,

Chief, Reactor Safety Branch A, Advisory Committee on Reactor Safeguards.

[FR Doc. E9–20016 Filed 8–19–09; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2009–0360]

Proposed Model Safety Evaluation for Plant-Specific Adoption of Technical Specification Task Force Traveler–501, Revision 1, “Relocate Stored Fuel Oil and Lube Oil Volume Values to Licensee Control”

AGENCY: Nuclear Regulatory Commission (NRC).

ACTION: Notice of opportunity for public comment.

DATES: Comments must be filed no later than 60 days from the date of publication of this notice in the **Federal Register**. Comments received after this date will be considered, if it is practical to do so, but the Commission is able to ensure consideration only for comments received on or before this date.

ADDRESSES: You may submit comments by any one of the following methods. Please include Docket ID NRC-2009-0360 in the subject line of your comments. Comments submitted in writing or in electronic form will be posted on the NRC Web site and on the Federal rulemaking Web site Regulations.gov. Because your comments will not be edited to remove any identifying or contact information, the NRC cautions you against including any information in your submission that you do not want to be publicly disclosed.

The NRC requests that any party soliciting or aggregating comments received from other persons for submission to the NRC inform those persons that the NRC will not edit their comments to remove any identifying or contact information, and therefore, they should not include any information in their comments that they do not want publicly disclosed.

Federal Rulemaking Web site: Go to <http://www.regulations.gov> and search for documents filed under Docket ID NRC-2009-0360. Address questions about NRC dockets to Carol Gallagher 301-492-3668; e-mail Carol.Gallagher@nrc.gov.

Mail comments to: Michael T. Lesar, Chief, Rulemaking and Directives Branch (RDB), Division of Administrative Services, Office of Administration, Mail Stop: TWB-05-B01M, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, or by fax to RDB at (301) 492-3446.

You can access publicly available documents related to this notice using the following methods:

NRC's Public Document Room (PDR): The public may examine and have copied for a fee publicly available documents at the NRC's PDR, Public File Area O1 F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland.

NRC's Agencywide Documents Access and Management System (ADAMS): Publicly available documents created or received at the NRC are available electronically at the NRC's Electronic Reading Room at <http://www.nrc.gov/reading-rm/adams.html>. From this page, the public can gain entry into ADAMS, which provides text and image files of NRC's public documents. If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC's PDR reference staff at 1-800-397-4209, 301-415-4737, or by e-mail to pdr.resource@nrc.gov. The proposed model safety evaluation, no significant

hazards consideration determination, and application for plant-specific adoption of TSTF Traveler-501, Revision 1, "Relocate Stored Fuel Oil and Lube Oil Volume Values To Licensee Control" are available electronically under ADAMS Accession Number ML091730236.

Federal Rulemaking Web site: Public comments and supporting materials related to this notice can be found at <http://www.regulations.gov> by searching on Docket ID: NRC-2009-0360.

FOR FURTHER INFORMATION CONTACT: Ms. Michelle C. Honcharik, Senior Project Manager, Special Projects Branch, Mail Stop: O-12D1, Division of Policy and Rulemaking, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001; telephone 301-415-1774 or e-mail at michelle.honcharik@nrc.gov.

SUPPLEMENTARY INFORMATION: The NRC is requesting public comment on the enclosed proposed model safety evaluation, no significant hazards consideration determination, and application for plant-specific adoption of Technical Specification Task Force (TSTF) Traveler-501, Revision 1, "Relocate Stored Fuel Oil and Lube Oil Volume Values To Licensee Control." The proposed changes would revise Technical Specification (TS) 3.8.3, "Diesel Fuel Oil, Lube Oil, and Starting Air," by relocating the current stored diesel fuel oil and lube oil numerical volume requirements from the TS to the TS Bases so that it may be modified under licensee control. This model safety evaluation will facilitate expedited approval of plant-specific adoption of TSTF Traveler-501, Revision 1. After the NRC staff considers any public comments, it will make a determination regarding the proposed TSTF Traveler-501.

Dated at Rockville, Maryland, this 12th day of August 2009.

For the Nuclear Regulatory Commission.

Stacey L. Rosenberg,

Chief, Special Projects Branch, Division of Policy and Rulemaking, Office of Nuclear Reactor Regulation.

Model Safety Evaluation for Plant-Specific Adoption of Technical Specification Task Force Traveler-501, Revision 1, "Relocate Stored Fuel Oil and Lube Oil Volume Values to Licensee Control"

1.0 Introduction

The licensee's current Technical Specifications (TS) contain numerical volume requirements for both stored diesel fuel oil and lube oil. Any changes to the numerical volume requirements

currently require prior approval from the U.S. Nuclear Regulatory Commission (NRC). As an example, diesel fuel oil numerical volume requirements may need to be modified in order to take into account changes to the energy content (BTU/gallon) of available fuels in the market.

Fluctuations in energy content could be caused by a variety of factors, including changes to regulatory requirements. By adopting NRC-approved Technical Specification Task Force (TSTF) Improved Standard Technical Specification Change Traveler-501, Revision 1, "Relocate Stored Fuel Oil and Lube Oil Volume Values to Licensee Control," the numerical volume requirements for both stored diesel fuel oil and lube oil are relocated from the TS to a licensee controlled document. As a result, the numerical volume requirements for both stored diesel fuel oil and lube oil may be modified under licensee control, and therefore, may not require prior NRC approval. By application dated [Date], [Name of Licensee] (the licensee) requested changes to the TS for the [Name of Facility].

The proposed changes revise TS 3.8.3, "Diesel Fuel Oil, Lube Oil, and Starting Air," by relocating the current stored diesel fuel oil and lube oil numerical volume requirements from the TS to the TS Bases so that it may be modified under licensee control. The TS is modified so that the stored diesel fuel oil and lube oil inventory will require that a [7] day supply be available for each diesel generator. As a result:

- Condition A and Condition B in the Action table are revised. Currently, Condition A and Condition B are entered when the stored diesel fuel oil and lube oil numerical volume requirements are not met. As discussed in the current TS Bases, the numerical volume requirements in Condition A and Condition B are based on volumes less than a [7] day supply, but greater than a [6] day supply. The revision relocates the volumetric requirements from the TS and places it in the TS Bases. The TS is modified so that Condition A and Condition B are entered when the stored diesel fuel oil and lube oil inventory is less than a [7] day supply, but greater than a [6] day supply for one or more diesel generators.

- Surveillance Requirement (SR) 3.8.3.1 and 3.8.3.2 are revised. Currently, SR 3.8.3.1 and SR 3.8.3.2 verify that the stored diesel fuel oil and lube oil numerical volume requirements are met. As discussed in the current TS Bases, the numerical volume requirements in SR 3.8.3.1 and SR

3.8.3.2 are based on maintaining at least a [7] day supply. The revision relocates the volumetric requirements from the TS and places it in the TS Bases. The TS is modified so that SR 3.8.3.1 and SR 3.8.3.2 verify that the stored diesel fuel oil and lube oil inventories are greater than or equal to a [7] day supply for each diesel generator.

- The reference to Appendix B of American National Standards Institute (ANSI) N195-1976 in the TS Bases is deleted. As a result, the only reference will be to ANSI N195-1976. {NRC Reviewer's Note: This modification to the TS may not be needed if it already exists. The BWR Standard TS already contain this change. Although not a change associated with TSTF Traveler-501, Revision 1, verify that Regulatory Guide (RG) 1.137 is referenced in the reference section of the TS Bases. This is needed since RG 1.137, Revision 1, provides supplemental information to ANSI N195-1976. In addition, RG 1.137 will now be referenced in SR 3.8.3.1, if not referenced elsewhere.}

The licensee stated that the application is consistent with NRC-approved TSTF Traveler 501, Revision 1, "Relocate Stored Fuel Oil and Lube Oil Volume Values to Licensee Control." The availability of this TS modification was announced in the **Federal Register** on [Date] ([] FR []) as part of the consolidated line item improvement process.

{NRC Reviewer's Note: Discuss any differences with TSTF Traveler-501, Revision 1. Consideration should be given to obtaining technical branch concurrences when the differences are more than administrative in nature.}

2.0 Regulatory Evaluation

2.1 Modification to LCO 3.8.3, "Diesel Fuel Oil, Lube Oil, and Starting Air," Requirements

The regulation at Title 10 of the Code of Federal Regulations (10 CFR) 50.36(c)(2)(i) states TS will include Limiting Conditions for Operation (LCO) which are "the lowest functional capability or performance levels of equipment required for safe operation of the facility."

The standby alternating current (AC) power sources are a part of the primary success path and function or actuate to mitigate a design basis accident or transient that either assumes the failure of or presents a challenge to the integrity of a fission product barrier. Diesel fuel oil and lube oil are retained in the TS to satisfy 10 CFR 50.36(c)(2)(i) since they support the operation of the standby AC power sources. The proposed changes revise TS 3.8.3,

"Diesel Fuel Oil, Lube Oil, and Starting Air," by relocating the current stored diesel fuel oil and lube oil numerical volume requirements from the TS to the TS Bases so that it may be modified under licensee control. The TS is modified so that the stored diesel fuel oil and lube oil inventory will require that a [7] day supply be available for each diesel generator. As discussed in Section 3.0, Technical Evaluation, this change still provides assurance that the lowest functional capability or performance levels of equipment required for safe operation of the facility will be continued to be met. Since 10 CFR 50.36(c)(2)(i) is continued to be met, this change is acceptable.

2.2 Modification to Action Table for TS 3.8.3, "Diesel Fuel Oil, Lube Oil, and Starting Air"

Paragraph 50.36(c)(2)(i) goes on to state that "when a limiting condition for operation of a nuclear reactor is not met, the licensee shall shut down the reactor or follow any remedial action permitted by the technical specifications until the condition can be met."

Condition A and Condition B in the Action table for TS 3.8.3, "Diesel Fuel Oil, Lube Oil, and Starting Air," are revised to reflect the change in LCO requirements as discussed in Section 2.1 above. Currently, Condition A and Condition B are entered when the stored diesel fuel oil and lube oil numerical volume requirements are not met. As discussed in the current TS Bases, the numerical volume requirements in Condition A and Condition B are based on volumes less than a [7] day supply, but greater than a [6] day supply. The proposal relocates the volumetric requirements from the TS and places it in the TS Bases. The TS is modified so that Condition A and Condition B are entered when the stored diesel fuel oil and lube oil inventory is less than a [7] day supply, but greater than a [6] day supply for one or more diesel generators. These remedial actions are permitted by 10 CFR 50.36(c)(2)(i), and the technical justification for allowing these remedial actions is discussed in Section 3.0, Technical Evaluation.

2.3 Modification to SR 3.8.3.1 and 3.8.3.2

Paragraph 50.36(c)(3) states TS will include SRs which are "requirements relating to test, calibration, or inspection to assure that the necessary quality of systems and components is maintained, that facility operation will be within safety limits, and that the limiting conditions for operation will be met."

Currently, SR 3.8.3.1 and SR 3.8.3.2 verify that the stored diesel fuel oil and

lube oil numerical volume requirements are met. SR 3.8.3.1 and SR 3.8.3.2 are revised to reflect the change in LCO requirements as discussed in Section 2.1 above. As a result, the SR are modified so that SR 3.8.3.1 and SR 3.8.3.2 verify that the stored diesel fuel oil and lube oil inventory is greater than or equal to a [7] day supply for each diesel generator. As discussed in Section 3.0, Technical Evaluation, this change still provides assurance that the necessary quality of systems and components is maintained, that facility operation will be within safety limits, and that the limiting conditions for operation will be met. Since 10 CFR 50.36(c)(3) is continued to be met, this change is acceptable.

2.4 Deletion of Reference to Appendix B of ANSI N195-1976

As discussed in Section 2.1 above, LCO 3.8.3, "Diesel Fuel Oil, Lube Oil, and Starting Air," is retained in the TS in order to satisfy 10 CFR 50.36(c)(2)(i).

The proposed change deletes the reference to Appendix B of ANSI N195-1976 in the TS Bases for TS 3.8.3. As a result, there will only be a reference to ANSI N195-1976, "Fuel Oil Systems for Standby Diesel-Generators." Although not a part of TS, the TS Bases contain amplifying and clarifying information on TS, and modification of the TS Bases can potentially impact TS requirements. This modification was evaluated in order to consider the potential change to LCO requirements associated with TS 3.8.3. As discussed in Section 3.0, Technical Evaluation, this change still provides assurance that the lowest functional capability or performance levels of equipment required for safe operation of the facility will be continued to be met. Since 10 CFR 50.36(c)(2)(i) is continued to be met, this modification to LCO 3.8.3 is acceptable.

3.0 Technical Evaluation

3.1 Modification to LCO 3.8.3, "Diesel Fuel Oil, Lube Oil, and Starting Air," Requirements

Each diesel generator is provided with a fuel oil capacity sufficient to operate that diesel for a period of [7] days while the diesel generator is supplying maximum load demand. This onsite fuel oil capacity is sufficient to operate the diesel generators for longer than the time to replenish the onsite supply from outside sources.

The diesel generator lubrication system is designed to provide sufficient lubrication to permit proper operation of its associated diesel generator under all loading conditions. The system is required to circulate the lube oil to the

diesel engine working surfaces and to remove excess heat generated by friction during operation. Each diesel generator has a lube oil inventory capable of supporting a minimum of [7] days of operation. This supply is sufficient to allow the operator to replenish lube oil from outside sources.

In order to meet a [7] day supply of stored diesel fuel oil and lube oil for each diesel generator, TS 3.8.3, "Diesel Fuel Oil, Lube Oil, and Starting Air," currently contains numerical volume requirements associated with a [7] day supply for each diesel generator. The TS Bases currently discuss that the numerical volume requirements are based on meeting a [7] day supply. The proposed change revises TS 3.8.3 by relocating the current stored diesel fuel oil and lube oil numerical volume requirements from the TS to the TS Bases so that it may be modified under licensee control. The TS is modified so that the stored diesel fuel oil and lube oil inventory will require that a [7] day supply be available for each diesel generator. No changes to the current plant configuration, current numerical volume requirements, or current [7] day basis are proposed in the application; the licensee is merely swapping the current numerical volume requirements from the TS to the TS Bases and swapping the associated current [7] day basis from the TS Bases to the TS.

Section 3.3 below discusses the methodology on how the stored diesel fuel oil and lube oil numerical volume basis in the TS Bases may be modified under licensee control. The use of this methodology will ensure that a [7] day supply of stored diesel fuel oil and lube oil for each diesel generator will be met, thereby providing assurance that the lowest functional capability or performance levels of the diesel generator required for safe operation of the facility will be continued to be met. Therefore, this change is acceptable.

3.2 Modification to Action Table for TS 3.8.3, "Diesel Fuel Oil, Lube Oil, and Starting Air"

Currently, Condition A and Condition B are entered when the stored diesel fuel oil and lube oil numerical volume requirements are not met. As discussed in the current TS Bases, the numerical volume requirements in Condition A and Condition B are based on volumes less than a [7] day supply, but greater than a [6] day supply. The proposal relocates the volumetric requirements from the TS and places it in the TS Bases. The TS is modified so that Condition A and Condition B are entered when the stored diesel fuel oil and lube oil inventory is less than a [7]

day supply, but greater than a [6] day supply for one or more diesel generators.

No other parts of Condition A and Condition B (i.e., Required Actions or Completion Times) are proposed to be modified in the application; the licensee is merely swapping the current numerical volume requirements that dictate Condition entry from the TS to the TS Bases and swapping the associated current less than [7] day but greater than [6] day basis for Condition entry from the TS Bases to the TS.

Section 3.3 below discusses the methodology on how the stored diesel fuel oil and lube oil numerical volume basis in the TS Bases may be modified under licensee control. The use of this methodology will ensure that the [7] day and [6] day supplies of stored diesel fuel oil and lube oil for each diesel generator that dictate Condition entry will continue to be calculated in accordance with NRC-approved methods. Therefore, this change is acceptable.

3.3 Modification to SRs 3.8.3.1 and 3.8.3.2

Currently, SR 3.8.3.1 and SR 3.8.3.2 verify that the stored diesel fuel oil and lube oil numerical volume requirements are met. SR 3.8.3.1 and SR 3.8.3.2 are revised to reflect the change in LCO requirements, namely that a [7] day supply be available for each diesel generator. As a result, the SRs are modified so that SR 3.8.3.1 and SR 3.8.3.2 verify that the stored diesel fuel oil and lube oil inventory is greater than or equal to a [7] day supply for each diesel generator.

No other parts of the SRs (i.e., Frequencies) are proposed to be modified in the application; the licensee is merely swapping the current numerical volume requirement verification from the TS to the TS Bases and swapping the associated current [7] day basis for verification from the TS Bases to the TS.

The methodology for determining the [7] day stored diesel fuel oil supply for each diesel generator, as well as the [6] day supply associated with Condition A, is calculated in accordance with RG 1.137, Revision 1, "Fuel-Oil Systems for Standby Diesel Generators," and ANSI N195 1976. ANSI N195-1976 discusses how the stored diesel fuel oil requirement shall be calculated based upon the diesel generators operating at the minimum required capacity for the plant condition which is most limiting for the calculation of such capacity. One method for calculating the stored diesel fuel oil supply takes into account the time dependence of diesel generator loads. That is, if diesel generator loads

increase or decrease during the event, the load changes shall be included in the required fuel storage calculation. If the design includes provisions for an operator to supply power to equipment other than the minimum required for the plant condition, such additional loads shall be included in the calculation of required fuel storage capacity. RG 1.137, Revision 1, supplements the above by stating that for the time-dependent load method, the minimum required capacity should include the capacity to power the engineered safety features. A minimum margin of 10% shall be added to the calculated storage requirement if the alternate conservative calculation discussed next is not used. Another method for calculating the stored diesel fuel oil supply, which is more conservative than the time-dependent load method, is to calculate the storage capacity by assuming that the diesel operates continuously for seven days at its rated capacity. Both calculation methods shall include an explicit allowance for fuel consumption required by periodic testing. This includes the fuel required for operation of the engine at the minimum loads specified by the engine manufacturer.

One variable used in both stored diesel fuel oil calculation methods is the fuel consumption rate. The property of diesel fuel oil having the most significant effect on the fuel consumption rate is the energy content (heating value) of the fuel. There are standards which correlate the energy content to the fuel's American Petroleum Institute (API) gravity or absolute specific gravity. At a minimum, plants calculate their required fuel storage values assuming the most limiting API gravity or absolute specific gravity, and therefore, the most limiting fuel energy content. As long as the fuel oil placed in the storage tank is within the assumed API gravity range or absolute specific gravity range, the calculations of fuel consumption and required stored volume remain valid. Current SR 3.8.3.3 requires new fuel to be tested in order to verify that the new fuel API gravity or absolute specific gravity is within the range assumed in the diesel fuel oil consumption calculations.

The lube oil inventory equivalent to a [7] day supply, as well as the [6] day supply associated with Condition B, is based on the diesel generator manufacturer consumption values for the run time of the diesel generator.

The above methods still provide assurance that the necessary quality of systems and components is maintained, that facility operation will be within

safety limits, and that the LCOs will be met. Therefore, the change to SR 3.8.3.1 and SR 3.8.3.2 is acceptable.

3.4 Deletion of Reference to Appendix B of ANSI N195–1976

The proposed change deletes the reference to Appendix B of ANSI N195–1976 in the TS Bases for TS 3.8.3. As a result, there will only be a reference to ANSI N195–1976. This modification was evaluated in order to consider the potential change to LCO requirements associated with TS 3.8.3. LCO 3.8.3 requires, in part, that the stored diesel fuel oil and lube oil shall be within limits for each required diesel generator. The basis for these limits is derived from RG 1.137, Revision 1, and Appendix B of ANSI N195–1976.

For proper operation of the standby diesel generators, it is necessary to ensure the proper quality of the fuel oil. RG 1.137, Revision 1, addresses the recommended fuel oil practices as supplemented by ANSI N195–1976, Appendix B. The fuel oil properties that are checked to ensure the proper quality of the fuel oil are sediment content, the kinematic viscosity, specific gravity (or API gravity), and impurity level.

Although the reference to Appendix B of ANSI N195–1976 will be deleted, RG 1.137, Revision 1, which is currently referenced in the TS Bases, states “Appendix B to ANSI N195–1976 addresses the recommended fuel oil practices. Although not a mandatory part of the standard, the staff believes Appendix B can serve as an acceptable basis for a program to maintain the quality of fuel oil, as supplemented by regulatory position 2 of this guide.” Regulatory Position 2 of RG 1.137 states, in part, “Appendix B to ANSI N195–1976 should be used as a basis for a program to ensure the initial and continuing quality of fuel oil.” As a result, the use of Appendix B of ANSI N195–1976 is still referenced, although now indirectly, and therefore still provides a basis for ensuring the proper quality of the fuel oil; namely that water and sediment content, the kinematic viscosity, specific gravity (or API gravity), and impurity level are within the specified limits. Current SR 3.8.3.3 verifies these limits.

The change still provides assurance that the lowest functional capability or performance levels of equipment required for safe operation of the facility will be continued to be met. Therefore, this modification to LCO 3.8.3 is acceptable.

4.0 State Consultation

In accordance with the Commission’s regulations, the [Name of State] State

official was notified of the proposed issuance of the amendment. The State official had [no] comments.

5.0 Environmental Consideration

The amendment changes a requirement with respect to installation or use of a facility component located within the restricted area as defined in 10 CFR Part 20. The NRC staff has determined that the amendment involves no significant increase in the amounts, and no significant change in the types, of any effluents that may be released offsite, and that there is no significant increase in individual or cumulative occupational radiation exposure. The Commission has previously issued a proposed finding that the amendment involves no significant hazards consideration, and there has been no public comment on such finding issued on [Date] ([] FR []). Accordingly, the amendment meets the eligibility criteria for categorical exclusion set forth in 10 CFR 51.22(c)(9). Pursuant to 10 CFR 51.22(b) no environmental impact statement or environmental assessment need be prepared in connection with the issuance of the amendment.

6.0 Conclusion

The Commission has concluded, based on the considerations discussed above that (1) there is reasonable assurance that the health and safety of the public will not be endangered by operation in the proposed manner, (2) such activities will be conducted in compliance with the Commission’s regulations, and (3) the issuance of the amendments will not be inimical to the common defense and security or to the health and safety of the public.

Principal Contributor: [NRC Reviewer]

{NRC Reviewer’s Note: TSTF Traveler-501, Revision 1, was reviewed by and deemed acceptable for use by licensees for plant-specific adoption by Aron Lewin (ITSB), Gurcharan Matharu (EEEE), Mathew Yoder (CSGB), and Robert Wolfgang (CPTB).}

Model No Significant Hazards Consideration Determination for Plant-Specific Adoption of TSTF Traveler-501, Revision 1, “Relocate Stored Fuel Oil and Lube Oil Volume Values to Licensee Control”

The proposed changes revise Technical Specifications (TS) by relocating the current stored diesel fuel oil and lube oil numerical volume requirements from the TS to the TS Bases so that it may be modified under licensee control. The current numerical volume requirements are based on a [7]

day supply. The TS is modified so that the stored diesel fuel oil and lube oil inventory will require that a [7] day supply be available for each diesel generator. As required by Title 10 of the Code of Federal Regulations (10 CFR) 50.92(c), an analysis of the issue of No Significant Hazards Consideration is presented below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No

The proposed change relocates the volume of diesel fuel oil and lube oil required to support [7] day operation of the onsite diesel generators, and the volume equivalent to a [6] day supply, to licensee control. The specific volume of fuel oil equivalent to a [7] and [6] day supply is calculated using the NRC-approved methodology described in Regulatory Guide 1.137, Revision 1, “Fuel-Oil Systems for Standby Diesel Generators” and ANSI N195 1976, “Fuel Oil Systems for Standby Diesel-Generators.” The specific volume of lube oil equivalent to a [7] and [6] day supply is based on the diesel generator manufacturer’s consumption values for the run time of the diesel generator. Because the requirement to maintain a [7] day supply of diesel fuel oil and lube oil is not changed and is consistent with the assumptions in the accident analyses, and the actions taken when the volume of fuel oil and lube oil are less than a [6] day supply have not changed, neither the probability or the consequences of any accident previously evaluated will be affected. Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No

The change does not involve a physical alteration of the plant (i.e., no new or different type of equipment will be installed) or a change in the methods governing normal plant operation. The change does not alter assumptions made in the safety analysis but ensures that the diesel generator operates as assumed in the accident analysis. The proposed change is consistent with the safety analysis assumptions. Therefore, the proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

Response: No

The proposed change relocates the volume of diesel fuel oil and lube oil required to support [7] day operation of the onsite diesel generators, and the volume equivalent to a [6] day supply, to licensee control. As the bases for the existing limits on diesel fuel oil and lube oil are not changed, no change is made to the accident analysis assumptions and no margin of safety is reduced as part of this change. Therefore, the proposed change does

not involve a significant reduction in a margin of safety.

Based on the above, the NRC concludes that the proposed change presents No Significant Hazards Consideration under the standards set forth in 10 CFR 50.92(c), and, accordingly, a finding of "No Significant Hazards Consideration" is justified.

Model Application for Plant-Specific Adoption of TSTF Traveler-501, Revision 1, "Relocate Stored Fuel Oil and Lube Oil Volume Values to Licensee Control"

{NRC Reviewer's Note: Applications will need to be processed under normal amendment review controls, including technical branch review, if:

- There are proposed changes to stored diesel fuel oil and lube oil current plant configuration, current numerical volume requirements, or current time period associated basis.
- There are proposed changes to SR Frequency, Required Actions, or Completion Times associated with stored diesel fuel oil and lube oil.
- There are proposed changes to the current ASTM D975 reference.
- The current licensing basis does not require that a [7] day supply of stored diesel fuel oil and lube oil be available for "each" diesel generator.
- The licensee's amendment request proposes changes that are different from the approved CLIP and are more than administrative in nature.}

U.S. Nuclear Regulatory Commission,
Document Control Desk, Washington,
DC 20555.

SUBJECT: [Plant Name]

DOCKET NO. 50-_____

LICENSE AMENDMENT REQUEST FOR ADOPTION OF TSTF TRAVELER 501, REVISION 1, "RELOCATE STORED FUEL OIL AND LUBE OIL VOLUME VALUES TO LICENSEE CONTROL"

In accordance with the provisions of Title 10 of the Code of Federal Regulations (10 CFR) 50.90, [Licensee] is submitting a request for an amendment to the Technical Specifications (TS) for [Plant Name, Unit No.].

The proposed changes revise TS 3.8.3, "Diesel Fuel Oil, Lube Oil, and Starting Air," by relocating the current stored diesel fuel oil and lube oil numerical volume requirements from the TS to the TS Bases so that it may be modified under licensee control. The TS is modified so that the stored diesel fuel oil and lube oil inventory will require that a [7] day supply be available for each diesel generator. Condition A and Condition B in the Action table are revised and Surveillance Requirements (SR) 3.8.3.1 and 3.8.3.2 are revised to

reflect the above change. [In addition, the reference to Appendix B of ANSI N195-1976, "Fuel Oil Systems for Standby Diesel-Generators," in the TS Bases is deleted. As a result, the only reference will be to ANSI N195-1976. The deletion of Appendix B of ANSI N195-1976 in the TS Bases is not required. ANSI N195-1976 and Regulatory Guide 1.137, Revision 1, "Fuel-Oil Systems for Standby Diesel Generators," are the current Bases references.]

Regarding stored diesel fuel oil and lube oil, no changes to the current plant configuration, current numerical volume requirements, or current [7] day basis are proposed in this application; the proposal merely swaps the current numerical volume requirements from the TS to the TS Bases and swaps the associated current [7] day basis from the TS Bases to the TS. In addition, no changes to any SR Frequency, Required Actions, or Completion Times are proposed in this application.

The proposed changes are consistent with NRC-approved Revision 1 to Technical Specification Task Force (TSTF) Improved Standard Technical Specification Change Traveler-501, "Relocate Stored Fuel Oil and Lube Oil Volume Values to Licensee Control." The availability of this TS improvement was announced in the **Federal Register** on [Date] ([] FR []) as part of the consolidated line item improvement process (CLIP). The approval of TSTF Traveler-501, Revision 1, was based on, in part, TSTF responses to NRC requests for additional information (RAI). The TSTF responses to NRC RAIs dated December 13, 2007, and May 5, 2008, are applicable to [Plant Name, Unit No.].

The SR 3.8.3.1 Bases in TSTF Traveler-501, Revision 1, reference "ASTM D975-[]". At [Plant Name, Unit No.], the current reference is ATSM D975-[]. This application does not propose to modify the current ATSM D975 reference.

TSTF Traveler-501, Revision 1, and the NRC staff's associated model safety evaluation published in the **Federal Register**, assume that the current licensing basis requires that a [7] day supply of stored diesel fuel oil and lube oil be available for "each" diesel generator. This is the current licensing basis for [Plant Name, Unit No.].

[Discuss any other differences not already considered with TSTF Traveler-501, Revision 1.]

Attachment 1 provides an evaluation of the proposed change. Attachment 2 provides the existing TS pages marked up to show the proposed change. Attachment 3 provides the proposed TS changes in final typed format.

Attachment 4 provides the existing Bases pages marked up to show the proposed change.

[Licensee] requests approval of the proposed license amendment by [Date], with the amendment being implemented [by date or within X days].

In accordance with 10 CFR 50.91, a copy of this application, with attachments, is being provided to the designated [State] Official.

If you should have any questions regarding this submittal, please contact [].

I declare [or certify, verify, state] under penalty of perjury that the foregoing is true and correct.

[Name, Title] _____.

Attachments: 1. Evaluation of Proposed Change.

2. Proposed Technical Specification Change (Mark-Up). [No model of Attachment 2 is provided; content is plant-specific.]

3. Proposed Technical Specification Change (Re-Typed). [No model of Attachment 3 is provided; content is plant-specific.]

4. Proposed Technical Specification Bases Change (Mark-Up). [No model of Attachment 4 is provided; content is plant-specific.]

cc: [NRR Project Manager]
[Regional Office]
[Resident Inspector]
[State Contact]

Attachment 1—Evaluation of Proposed Change

License Amendment Request for Adoption of TSTF Traveler-501, "Relocate Stored Fuel Oil and Lube Oil Volume Values to Licensee Control"

- 1.0 Description
- 2.0 Proposed Change
- 3.0 Background
- 4.0 Technical Analysis
- 5.0 Regulatory Safety Analysis
 - 5.1 No Significant Hazards Determination
 - 5.2 Applicable Regulatory Requirements/ Criteria
- 6.0 Environmental Consideration
- 7.0 References

1.0 Description

The proposed changes revise Technical Specification (TS) 3.8.3, "Diesel Fuel Oil, Lube Oil, and Starting Air," by relocating the current stored diesel fuel oil and lube oil numerical volume requirements from the TS to the TS Bases so that it may be modified under licensee control. The TS is modified so that the stored diesel fuel oil and lube oil inventory will require that a [7] day supply be available for each diesel generator. This change is consistent with NRC approved Revision

1 to Technical Specification Task Force (TSTF) Improved Standard Technical Specification Change Traveler-501, "Relocate Stored Fuel Oil and Lube Oil Volume Values to Licensee Control." The availability of this TS improvement was announced in the **Federal Register** on [Date] ([] FR []) as part of the consolidated line item improvement process (CLIP).

2.0 Proposed Change

Consistent with the NRC-approved Revision 1 of TSTF Traveler-501, the proposed changes revise TS 3.8.3, "Diesel Fuel Oil, Lube Oil, and Starting Air," by relocating the current stored diesel fuel oil and lube oil numerical volume requirements from the TS to the TS Bases so that it may be modified under licensee control. The TS is modified so that the stored diesel fuel oil and lube oil inventory will require that a [7] day supply be available for each diesel generator. As a result:

- Condition A and Condition B in the Action table are revised. Currently, Condition A and Condition B are entered when the stored diesel fuel oil and lube oil numerical volume requirements are not met. As discussed in the current TS Bases, the numerical volume requirements in Condition A and Condition B are based on volumes less than a [7] day supply, but greater than an a [6] day supply. The revision relocates the volumetric requirements from the TS and places it in the TS Bases. The TS is modified so that Condition A and Condition B are entered when the stored diesel fuel oil and lube oil inventory is less than a [7] day supply, but greater than a [6] day supply for one or more diesel generators.

- Surveillance Requirements (SR) 3.8.3.1 and 3.8.3.2 are revised. Currently, SR 3.8.3.1 and SR 3.8.3.2 verify that the stored diesel fuel oil and lube oil numerical volume requirements are met. As discussed in the current TS Bases, the numerical volume requirements in SR 3.8.3.1 and SR 3.8.3.2 are based on maintaining at least a [7] day supply. The revision relocates the volumetric requirements from the TS and places it in the TS Bases. The TS is modified so that SR 3.8.3.1 and SR 3.8.3.2 verify that the stored diesel fuel oil and lube oil inventory is greater than or equal to a [7] day supply for each diesel generator.

- [The reference to Appendix B of ANSI N195-1976 in the TS Bases is deleted. As a result, the only reference will be to ANSI N195-1976.]

Proposed revisions to the TS Bases are also included in this application. Adoption of the TS Bases associated

with TSTF Traveler-501, Revision 1, is an integral part of implementing this TS amendment. The changes to the affected TS Bases pages will be incorporated in accordance with the TS Bases Control Program.

This application is being made in accordance with the CLIP. [Licensee] is [not] proposing variations or deviations from the TS changes described in TSTF Traveler-501, Revision 1, or the NRC staff's model safety evaluation published on [Date] ([] FR []) as part of the CLIP Notice of Availability. [Discuss any differences with TSTF Traveler-501, Revision 1.]

3.0 Background

The background for this application is adequately addressed by the NRC Notice of Availability published on [Date] ([] FR []).

4.0 Technical Analysis

[Licensee] has reviewed the model safety evaluation published on [Date] ([] FR []) as part of the CLIP Notice of Availability. [Licensee] has concluded that the technical justifications presented in the model safety evaluation prepared by the NRC staff are applicable to [Plant, Unit No.] and therefore justify this amendment for the incorporation of the proposed changes to the [Plant] TS.

5.0 Regulatory Safety Analysis

5.1 No Significant Hazards Consideration

The proposed changes revise TS by relocating the current stored diesel fuel oil and lube oil numerical volume requirements from the TS to the TS Bases so that it may be modified under licensee control. The current numerical volume requirements are based on a [7] day supply. The TS is modified so that the stored diesel fuel oil and lube oil inventory will require that a [7] day supply be available for each diesel generator. As required by 10 CFR 50.92(c), an analysis of the issue of No Significant Hazards Consideration is presented below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No

The proposed change relocates the volume of diesel fuel oil and lube oil required to support [7] day operation of the onsite diesel generators, and the volume equivalent to a [6] day supply, to licensee control. The specific volume of fuel oil equivalent to a [7] and [6] day supply is calculated using the NRC-approved methodology described in Regulatory Guide 1.137, Revision 1, "Fuel-Oil Systems for Standby Diesel Generators" and ANSI N195 1976, "Fuel Oil Systems for

Standby Diesel-Generators." The specific volume of lube oil equivalent to a [7] and [6] day supply is based on the diesel generator manufacturer's consumption values for the run time of the diesel generator. Because the requirement to maintain a [7] day supply of diesel fuel oil and lube oil is not changed and is consistent with the assumptions in the accident analyses, and the actions taken when the volume of fuel oil and lube oil are less than a [6] day supply have not changed, neither the probability or the consequences of any accident previously evaluated will be affected. Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No

The change does not involve a physical alteration of the plant (i.e., no new or different type of equipment will be installed) or a change in the methods governing normal plant operation. The change does not alter assumptions made in the safety analysis but ensures that the diesel generator operates as assumed in the accident analysis. The proposed change is consistent with the safety analysis assumptions. Therefore, the proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

Response: No

The proposed change relocates the volume of diesel fuel oil and lube oil required to support [7] day operation of the onsite diesel generators, and the volume equivalent to a [6] day supply, to licensee control. As the bases for the existing limits on diesel fuel oil and lube oil are not changed, no change is made to the accident analysis assumptions and no margin of safety is reduced as part of this change. Therefore, the proposed change does not involve a significant reduction in a margin of safety.

Based on the above, [Licensee] concludes that the proposed change presents No Significant Hazards Consideration under the standards set forth in 10 CFR 50.92(c), and, accordingly, a finding of "No Significant Hazards Consideration" is justified.

5.2 Applicable Regulatory Requirements/Criteria

A description of the proposed TS change and its relationship to applicable regulatory requirements was provided in the NRC Notice of Availability published on [Date] ([] FR []).

6.0 Environmental Consideration

[Licensee] has reviewed the environmental evaluation included in the model safety evaluation published on [Date] ([] FR []) as part of the CLIP Notice of Availability. [Licensee] has concluded that the NRC staff's

findings presented in that evaluation are applicable to [Plant, No.] and the evaluation is hereby incorporated by reference for this application.

7.0 References

1. **Federal Register** Notice, Notice of Availability published on [DATE] ([] FR []).
2. TSTF Traveler-501, Revision 1, "Relocate Stored Fuel Oil and Lube Oil Volume Values to Licensee Control." (ADAMS Accession No. ML090510686)
3. Response to NRC RAI dated May 5, 2008. (ADAMS Accession No. ML082620238)
4. Response to NRC RAI dated December 13, 2007. (ADAMS Accession No. ML080670151)
5. TSTF Traveler-501, Revision 0, "Relocate Stored Fuel Oil and Lube Oil Volume Values to Licensee Control." (ADAMS Accession No. ML072040102)

[FR Doc. E9-19998 Filed 8-19-09; 8:45 am]

BILLING CODE 7590-01-P

PRESIDIO TRUST

Proposed Trial Use Limits

AGENCY: The Presidio Trust.

ACTION: Notice of proposed trial use limits and request for comments.

SUMMARY: The Presidio Trust ("Trust") is announcing its proposal to undertake trial temporary traffic-calming and reduction measures for a period up to 45 days in that portion of The Presidio of San Francisco under the Trust's administrative jurisdiction ("Area B"), including temporary road closures of certain roads, in order to assess various means that may slow traffic through Area B and reduce cut-through traffic. The Trust is also announcing its termination of the trial temporary public use limits no later than 45 days after they commence.

Background: In the 2002 Presidio Trust Management Plan, the Trust committed to mitigate traffic impacts as Area B occupancy increased and visitation grew. The Trust has implemented a number of strategies and an array of traffic-calming measures. In March 2009, the Trust took traffic counts at all Presidio gates which allowed the Trust to ascertain what percentage of the cars entering the Presidio simply drove through the park and out another gate. The Trust determined that, while the Trust appears to have succeeded in managing traffic generated by park residents, tenants and visitors, and that the Presidio has sufficient capacity for traffic generated by anticipated Presidio land uses, cut-through traffic has become a major issue representing

approximately 50% of the traffic in Area B. With the anticipated transformation of Doyle Drive, the landscape of the Presidio will be changing and new traffic patterns will emerge. As part of the planning effort required to prepare for these new traffic impacts, the Trust proposes to undertake a park-wide traffic management study commencing approximately September 29, 2009 and lasting no longer than 45 days.

This trial limitation of public use and resulting study will help the Trust in implementing its management responsibilities and in avoiding conflicts among resident, tenant and visitor activities by allowing the Trust to analyze the effects of measures that are intended to slow traffic and to discourage cut-through traffic on Area B's major streets and gateways and through the Presidio's residential neighborhoods. In particular, it will help the Trust plan for the effect the new Doyle Drive/Girard Street interchange may have on the use of Area B streets for cut-through traffic. Further, as implementation of the Presidio's Trail and Bikeways Master Plan continues, the Trust expects the numbers of pedestrian and cyclists using the park to increase. Ensuring the safety of this growing population means prioritizing the traffic movements of park users over traffic unrelated to park uses.

SUPPLEMENTARY INFORMATION: Under 36 CFR 1001.5, the Board of Directors of the Presidio Trust ("Board") may close all or a portion of Area B to all public use or to a specific use or activity, given a determination that such action is necessary for the maintenance of public health and safety, the protection of environmental or scenic values, or the avoidance of conflict among visitor use activities. The Board has determined that the trial temporary traffic-calming and reduction measures, including temporary road closures of certain roads for a period up to 45 days commencing approximately September 29, 2009, will afford the Trust the opportunity to study and monitor the effects (both positive and negative) of these actions. By this notice, the Trust is also announcing its intent to terminate these public use limits no later than 45 days after they commence. The Board has authorized these trial temporary public use limits in Resolution 09-19.

FOR FURTHER INFORMATION CONTACT: Public Affairs (415.561.5418), The Presidio Trust, 34 Graham St., P.O. Box 29052, San Francisco, CA 94129-0052.

Comments: All written comments must be received by the Trust no later than September 21, 2009. Address all

written comments to: Karen A. Cook, General Counsel, The Presidio Trust, 34 Graham St., P.O. Box 29052, San Francisco, CA 94129-0052. All public comments submitted to the Trust will be considered, and this proposal may be modified accordingly. The final decision of the Trust will be published in the **Federal Register**.

If individuals submitting comments request that their name and/or address be withheld from public disclosure, it will be honored to the extent allowable by law. Such requests must be stated prominently at the beginning of the comments. There also may be circumstances wherein the Trust will withhold a respondent's identity as allowable by law. The Trust will make available for public inspection all submissions from organizations or businesses and from persons identifying themselves as representatives or officials of organizations and businesses. Anonymous comments may not be considered.

Dated: August 14, 2009.

Karen A. Cook,
General Counsel.

[FR Doc. E9-20030 Filed 8-19-09; 8:45 am]

BILLING CODE 4310-4R-P

SMALL BUSINESS ADMINISTRATION

National Small Business Development Center Advisory Board

AGENCY: U.S. Small Business Administration (SBA)

ACTION: Notice of open Federal advisory committee meeting.

SUMMARY: The SBA is issuing this notice to announce the location, date, time and agenda for the next meeting of the National Small Business Development Center (SBDC) Advisory Board.

DATES: The meeting will be held on Tuesday, September 15, 2009 at 2 p.m. EST.

ADDRESSES: This meeting will be held at the Rosen Shingle Creek Hotel, 9939 Universal Blvd., Orlando, FL 32819.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a) of the Federal Advisory Committee Act (5 U.S.C. Appendix 2), SBA announces the meeting of the National SBDC Advisory Board. This Board provides advice and counsel to the SBA Administrator and Associate Administrator for Small Business Development Centers.

The purpose of this meeting is to discuss the following issues pertaining to the SBDC Advisory Board:

- SBA Update from AA/OSBDC;
- White Paper Issues;

—Member Roundtable.

FOR FURTHER INFORMATION CONTACT: The meeting is open to the public however advance notice of attendance is requested. Anyone wishing to be a listening participant must contact Alanna Falcone by Friday, September 11, 2009, by fax or e-mail in order to be placed on the agenda. Alanna Falcone, Program Analyst, 409 Third Street, SW., Washington, DC 20416, Phone 202-619-1612, Fax 202-481-0134, e-mail, alanna.falcone@sba.gov.

Additionally, if you need accommodations because of a disability or require additional information, please contact Alanna Falcone at the information above.

Meaghan Burdick,

Committee Management Officer.

[FR Doc. E9-19999 Filed 8-19-09; 8:45 am]

BILLING CODE 8025-01-P

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting

Federal Register Citation of Previous Announcement: [74 FR 41466, August 17, 2009].

STATUS: Closed Meeting.

PLACE: 100 F Street, NE., Washington, DC.

DATE AND TIME OF PREVIOUSLY ANNOUNCED MEETING: Thursday, August 20, 2009 at 2 p.m.

CHANGE IN THE MEETING: Cancellation of Meeting.

The Closed Meeting scheduled for Thursday, August 20, 2009 at 2 p.m. has been cancelled.

For further information please contact the Office of the Secretary at (202) 551-5400.

Dated: August 18, 2009.

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E9-20099 Filed 8-19-09; 8:45 am]

BILLING CODE 8010-01-P

SECURITIES AND EXCHANGE COMMISSION

[File No. 500-1]

In the Matter of Magnum Resources, Inc., Manakoa Services Corp. (n/k/a Teslavisision Corp.), Maxus Technology Corp., Med/Waste, Inc., Medsearch Technologies, Inc., and Meisenheimer Capital, Inc.; Order of Suspension of Trading

August 18, 2009.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Magnum Resources, Inc. because it has not filed any periodic reports since the period ended April 30, 1999.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Manakoa Services Corp. (n/k/a Teslavisision Corp.) because it has not filed any periodic reports since the period ended December 31, 2006.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Maxus Technology Corp. because it has not filed any periodic reports since the period ended November 30, 2004.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Med/Waste, Inc. because it has not filed any periodic reports since the period ended September 30, 2000.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Medsearch Technologies, Inc. because it has not filed any periodic reports since the period ended September 30, 2001.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Meisenheimer Capital, Inc. because it has not filed any periodic reports since the period ended February 29, 2004.

The Commission is of the opinion that the public interest and the protection of investors require a suspension of trading in the securities of the above-listed companies.

Therefore, it is ordered, pursuant to Section 12(k) of the Securities Exchange Act of 1934, that trading in the securities of the above-listed companies is suspended for the period from 9:30 a.m. EDT on August 18, 2009, through 11:59 p.m. EDT on August 31, 2009.

By the Commission.

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E9-20111 Filed 8-18-09; 4:15 pm]

BILLING CODE 8010-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-60488; File No. SR-CBOE-2009-037]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Order Approving Proposed Rule Change, as Modified by Amendment Nos. 1 and 2 Thereto, To Amend Its Minor Rule Violation Plan

August 12, 2009.

On June 4, 2009, the Chicago Board Options Exchange, Incorporated (“CBOE” or “Exchange”) filed with the Securities and Exchange Commission (“Commission”), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)¹ and Rule 19b-4 thereunder,² a proposed rule change amending CBOE Rule 17.50 (Minor Rule Plan) (“MRP”) to incorporate additional violations into the MRP, increase the sanctions for certain violations, to make other minor changes, and to make changes to the trading and decorum violations. On June 17, 2009, the Exchange filed Amendment No. 1 to the proposed rule change to make non-substantive, technical edits to the rule text submitted as Exhibit 5 to SR-CBOE-2009-037. On June 23, 2009, the Exchange filed Amendment No. 2 to the proposed rule change making corrections to the description of the changes submitted in Amendment No. 1. The proposed rule change, as amended, was published for comment in the **Federal Register** on July 6, 2009.³ The Commission received no comments on the proposal. This order approves the proposed rule change.

The Exchange has proposed to make additional rules subject to punishment under its the MRP. These rules relate to: (1) Exercise limits (Rule 4.12); (2) trading in restricted classes (Rule 5.4); (3) linkage violations (Rules 6.83 and 6.84); (4) market maker quoting obligations (Rules 8.7, 8.15A, 8.85, and 8.93); (5) failure to accurately report position and account information (Rule 4.13); (6) failure to designate a person or persons responsible for implementing and monitoring a member’s anti-money laundering compliance program (Rule

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ Securities Exchange Act Release No. 60177 (June 25, 2009), 74 FR 32015.

4.20); (7) failure to provide prior capital withdrawal notice (Rule 15c3-1(e) under the Act); and (8) failure to provide post capital withdrawal notice (Rule 15c3-1(e) under the Act). The Exchange believes that it will be able to carry out its regulatory responsibility more quickly and efficiently by incorporating these violations into its MRP.

The Exchange has also proposed to increase the fine levels for certain violations.⁴ The Exchange believes that the current fine levels for such violations are too low, given the serious nature of such offenses, and that the proposed increases are necessary to be an effective deterrent against future violations and a just penalty for such violations. Furthermore, the Exchange has proposed to extend the surveillance period for many of the violations to a 24-month rolling period from a 12-month period.⁵ The Exchange believes that increasing the surveillance period will serve as an effective deterrent to future violative conduct. The Exchange also proposed a few other technical corrections to its MRP.

The Exchange proposed to establish a rolling 24-month look-back period for all of their trading and decorum violation offenses. In addition, the

⁴ The proposed increased fines would apply to the following violations: (1) Failure to respond in a timely manner to a request for automated submission of trade data ("Blue Sheets") (Rule 15.7); (2) failure of a floor broker or market maker to honor the firm quote requirements (Rule 8.51), to honor the priority of marketable customer orders maintained in the Customer Limit Order Book (Rule 6.45), and to use due diligence in the execution of orders for which the floor member maintains an agency obligation (Rule 6.73); and (3) violations of exercise and exercise advice rules for American-style, cash-settled index options (Rule 11.1, Interpretation and Policy .03).

⁵ The violations that will have a 24-month rolling period are: (1) Violation of exercise and position limits (Rule 4.11 and 4.12); (2) failure to respond in a timely manner to a request for automated submission of trade data ("Blue Sheets") (Rule 15.7); (3) failure of a floor broker or market maker to honor the firm quote requirements (Rule 8.51), to honor the priority of marketable customer orders maintained in the Customer Limit Order Book (Rule 6.45), and to use due diligence in the execution of orders for which the floor member maintains an agency obligation (Rule 6.73); (4) failure to submit trade data on trade date (Rule 6.51); (5) violations of exercise and exercise advice rules for American-style, cash-settled index options (Rule 11.1, Interpretation and Policy .03); (6) communications to the Exchange or the clearing corporation (Rule 4.22); (7) trading in restricted classes (Rule 5.4); (8) linkage violations (Rules 6.83 and 6.84); (9) failure to meet Exchange quoting obligations (Rules 8.7, 8.15A, 8.85, and 8.93); (10) failure to accurately report position and account information (Rule 4.13); (11) failure to provide prior capital withdrawal notice (Rule 15c3-1(e) under the Act); (12) failure to provide post capital withdrawal notice (Rule 15c3-1(e) under the Act); and (13) failure to designate a person or persons responsible for implementing and monitoring a member's anti-money laundering compliance program (Rule 4.20).

Exchange proposed to establish fixed fine levels for Class A and Class B Offenses.⁶ For Class A Offenses, CBOE will now assess a fine of \$1,000 for the first violation, \$2,500 for the second violation, and \$5,000 for the third violation. The Exchange is also proposing to delete the reference to "Subsequent Offenses" for Class A Offenses.⁷ For Class B Offenses, CBOE is proposing to assess a fine of \$250 for the first offense, \$500 for the second offense, \$1,000 for the third offense, and \$2,500 for any subsequent offenses.⁸ The Exchange proposes to change the classification of a market maker failing to respond to a request for a market by an Order Book Official or a PAR Official from a Class B Offense to a Class A Offense due to the nature of this violation. The Exchange is also proposing to remove obsolete or duplicative violations from the list of Class A and Class B Offenses.⁹

The Commission finds that the proposal is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.¹⁰ In particular, the Commission believes that the proposal is consistent with Section 6(b)(5) of the Act,¹¹ which requires that the rules of an exchange be designed to, among other things, protect investors and the public interest. The Commission also believes that the proposal is consistent with Sections 6(b)(1) and 6(b)(6) of the Act,¹² which require that the rules of an exchange enforce compliance with, and provide appropriate discipline for, violations of

⁶ Class A Offenses are considered more serious than Class B Offenses and therefore carry a heavier penalty. Class A Offenses include unbusinesslike conduct, harassment, and property damage. Class B Offenses include abusive language, dress code violations, and failure to display I.D.

⁷ The previous fine levels for Class A Offenses were: \$500 to \$1,500 for the first violation, \$1,000 to \$3,000 for the second violation, \$2,000 to \$5,000 for the third violation, and \$3,500 to \$5,000 for subsequent offenses.

⁸ The previous fine levels for Class B Offenses were: \$100 to \$500 for the first offense, \$500 to \$1,000 for the second offense, \$1,000 for the third offense, and \$2,500 for subsequent offenses.

⁹ The Exchange is proposing to remove ten Class A and Class B Violations. They are: (i) Quote width violations; (ii) violations of Rule 8.51 (Firm Quote); (iii) enabling/assisting a suspended member or associated person to gain improper access to the floor; (iv) gaining/enabling improper access to the floor; (v) effecting or attempting to effect a transaction with no public outcry; (vi) improper use of the runners' aisle; (vii) trading in the aisle; (viii) impermissible use of member phones; (ix) returning late or failing to return a visitor badge; and (x) DPM failure to activate or deactivate RAES.

¹⁰ In approving this proposed rule change, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

¹¹ 15 U.S.C. 78f(b)(5).

¹² 15 U.S.C. 78f(b)(1) and 78f(b)(6).

Commission and Exchange rules. Furthermore, the Commission believes that the proposed changes to the MRP should strengthen the Exchange's ability to carry out its oversight and enforcement responsibilities as a self-regulatory organization in cases where full disciplinary proceedings are unsuitable in view of the minor nature of the particular violation. Therefore, the Commission finds that the proposal is consistent with the public interest, the protection of investors, or otherwise in furtherance of the purposes of the Act, as required by Rule 19d-1(c)(2) under the Act,¹³ which governs minor rule violation plans.

In approving this proposed rule change, the Commission in no way minimizes the importance of compliance with CBOE rules and all other rules subject to the imposition of fines under the MRP. The Commission believes that the violation of any self-regulatory organization's rules, as well as Commission rules, is a serious matter. However, the MRP provides a reasonable means of addressing rule violations that do not rise to the level of requiring formal disciplinary proceedings, while providing greater flexibility in handling certain violations. The Commission expects that CBOE will continue to conduct surveillance with due diligence and make a determination based on its findings, on a case-by-case basis, whether a fine of more or less than the recommended amount is appropriate for a violation under the MRP or whether a violation requires formal disciplinary action under CBOE Rules 17.1-17.14.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act¹⁴ and Rule 19d-1(c)(2) under the Act,¹⁵ that the proposed rule change (SR-CBOE-2009-037), as amended, be, and hereby is, approved and declared effective.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁶

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E9-19892 Filed 8-19-09; 8:45 am]

BILLING CODE 8010-01-P

¹³ 17 CFR 240.19d-1(c)(2).

¹⁴ 15 U.S.C. 78s(b)(2).

¹⁵ 17 CFR 240.19d-1(c)(2).

¹⁶ 17 CFR 200.30-3(a)(12); 17 CFR 200.30-3(a)(44).

DEPARTMENT OF STATE

[Public Notice 6733]

Culturally Significant Objects Imported for Exhibition Determinations: "Horace Walpole's Strawberry Hill"

SUMMARY: Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.*; 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, Delegation of Authority No. 236 of October 19, 1999, as amended, and Delegation of Authority No. 257 of April 15, 2003 [68 FR 19875], I hereby determine that the objects to be included in the exhibition "Horace Walpole's Strawberry Hill," imported from abroad for temporary exhibition within the United States, are of cultural significance. The objects are imported pursuant to loan agreements with the foreign owners or custodians. I also determine that the exhibition or display of the exhibit objects at the Yale Center for British Art, New Haven, CT, from on or about October 15, 2009, until on or about January 3, 2010, and at possible additional exhibitions or venues yet to be determined, is in the national interest. Public Notice of these Determinations is ordered to be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: For further information, including a list of the exhibit objects, contact Carol B. Epstein, Attorney-Adviser, Office of the Legal Adviser, U.S. Department of State (telephone: 202/632-6473). The address is U.S. Department of State, SA-5, L/PD, Fifth Floor, Washington, DC 20522-0505.

Dated: August 14, 2009.

Maura M. Pally,

Deputy Assistant Secretary for Professional and Cultural Exchanges, Bureau of Educational and Cultural Affairs, Department of State.

[FR Doc. E9-20038 Filed 8-19-09; 8:45 am]

BILLING CODE 4710-05-P

SUSQUEHANNA RIVER BASIN COMMISSION**Notice of Public Hearing and Commission Meeting**

AGENCY: Susquehanna River Basin Commission.

ACTION: Notice of public hearing and Commission meeting.

SUMMARY: The Susquehanna River Basin Commission will hold a public hearing as part of its regular business meeting beginning at 8:30 a.m. on September 10, 2009, in North East, Md. At the public hearing, the Commission will consider: (1) Action on certain water resources projects; (2) the rescission of five previous docket approvals; (3) enforcement actions against two projects; and (4) one request for an administrative hearing on a project previously approved by the Commission. Details concerning the matters to be addressed at the public hearing and business meeting are contained in the Supplementary Information section of this notice.

DATES: September 10, 2009.

ADDRESSES: Chesapeake Lodge Hotel & Conference Center at Sandy Cove Ministries, 60 Sandy Cove Road, North East, MD.

FOR FURTHER INFORMATION CONTACT: Richard A. Cairo, General Counsel, telephone: (717) 238-0423, ext. 306; fax: (717) 238-2436; e-mail: rcairo@srbc.net or Stephanie L. Richardson, Secretary to the Commission, telephone: (717) 238-0423, ext. 304; fax: (717) 238-2436; e-mail: srichardson@srbc.net.

SUPPLEMENTARY INFORMATION: In addition to the public hearing and its related action items identified below, the business meeting also includes actions or presentations on the following items: (1) Hydrologic conditions of the basin; (2) the Maryland Lt. Governor's Water Summit Update; (3) panel discussion on the Chesapeake Bay and Ecosystems as SRBC "Priority Management Areas"; (4) the William Jeanes award; (5) final rulemaking regarding federal licensing/re-licensing of projects and other revisions; (6) an Access to Records Policy; and (7) ratification/approval of grants/contracts. The Commission will also hear a Legal Counsel's report.

Public Hearing—Compliance Actions

1. *Project Sponsor:* Allegheny Energy Supply Company, LLC and UGI Development Company. *Project Facility:* Hunlock Power Station, Unit 4, Hunlock Township, Luzerne County, PA.

2. *Project Sponsor:* Chief Oil & Gas LLC. *Project Facility:* Phelps 1H Well, Lathrop Township, Susquehanna County, PA.

Public Hearing—Projects Scheduled for Action

1. *Project Sponsor and Facility:* ALTA Operating Company, LLC (Berkowitz Pond), Forest Lake Township, Susquehanna County, PA. Application

for surface water withdrawal of up to 0.249 mgd.

2. *Project Sponsor:* Antrim Treatment Trust. *Project Facility:* Antrim No. 1, Duncan Township, Tioga County, PA. Application for surface water withdrawal of up to 0.720 mgd.

3. *Project Sponsor and Facility:* Charles Header-Laurel Springs Development, Barry Township, Schuylkill County, PA. Application for groundwater withdrawal of 0.099 mgd from Laurel Springs 1 and 2.

4. *Project Sponsor and Facility:* Charles Header-Laurel Springs Development, Barry Township, Schuylkill County, PA. Application for consumptive water use of up to 0.099 mgd.

5. *Project Sponsor:* Community Refuse Service, Inc. *Project Facility:* Cumberland County Landfill, Hopewell and North Newton Townships, Cumberland County, PA. Modification to increase consumptive water use from a peak day of 0.090 mgd up to 0.140 mgd (Docket No. 20050907).

6. *Project Sponsor:* Community Refuse Service, Inc. *Project Facility:* Cumberland County Landfill, Hopewell and North Newton Townships, Cumberland County, PA. Application for groundwater withdrawal of 0.053 mgd from eight wells for consumptive water use.

7. *Project Sponsor and Facility:* EXCO—North Coast Energy, Inc. (Tunkhannock Creek—Dixon), Tunkhannock Township, Wyoming County, PA. Application for surface water withdrawal of up to 0.999 mgd.

8. *Project Sponsor and Facility:* Fortuna Energy Inc. (Towanda Creek—Franklin Township Volunteer Fire Department), Franklin Township, Bradford County, PA. Application for surface water withdrawal of up to 2.000 mgd.

9. *Project Sponsor and Facility:* J-W Operating Company (Abandoned Mine Pool—Unnamed Tributary to Finley Run), Shippen Township, Cameron County, PA. Application for surface water withdrawal of up to 0.090 mgd.

10. *Project Sponsor and Facility:* LHP Management, LLC (Fishing Creek—Clinton Country Club), Bald Eagle Township, Clinton County, PA. Application for surface water withdrawal of up to 5.000 mgd.

11. *Project Sponsor and Facility:* Mansfield Borough Municipal Authority, Richmond Township, Tioga County, PA. Application for groundwater withdrawal of up to 0.079 mgd from Well 3.

12. *Project Sponsor and Facility:* Seneca Resources Corporation (Arnot No. 5), Bloss Township, Tioga County,

PA. Application for surface water withdrawal of up to 0.499 mgd.

13. *Project Sponsor and Facility:* Southwestern Energy Company (Cold Creek—Giroux), Herrick Township, Bradford County, PA. Application for surface water withdrawal of up to 0.249 mgd.

14. *Project Sponsor and Facility:* Southwestern Energy Company (Mill Creek—Kennedy), Stevens Township, Bradford County, PA. Application for surface water withdrawal of up to 0.249 mgd.

15. *Project Sponsor and Facility:* Southwestern Energy Company (Ross Creek—Billings), Stevens Township, Bradford County, PA. Application for surface water withdrawal of up to 0.249 mgd.

16. *Project Sponsor and Facility:* Southwestern Energy Company (Sutton Big Pond), Herrick Township, Bradford County, PA. Application for surface water withdrawal of up to 5.000 mgd.

17. *Project Sponsor and Facility:* Southwestern Energy Company (Tunkhannock Creek—Price), Gibson Township, Susquehanna County, PA. Application for surface water withdrawal of up to 0.380 mgd.

18. *Project Sponsor and Facility:* Southwestern Energy Company (Wyalusing Creek—Ferguson), Wyalusing Township, Bradford County, PA. Application for surface water withdrawal of up to 1.500 mgd.

19. *Project Sponsor and Facility:* Southwestern Energy Company (Wyalusing Creek—Campbell), Stevens Township, Bradford County, PA. Application for surface water withdrawal of up to 1.500 mgd.

20. *Project Sponsor:* UGI Development Company. *Project Facility:* Hunlock Power Station, Hunlock Township, Luzerne County, PA. Application for surface water withdrawal from the Susquehanna River of up to 55.050 mgd.

21. *Project Sponsor:* UGI Development Company. *Project Facility:* Hunlock Power Station, Hunlock Township, Luzerne County, PA. Application for consumptive water use of up to 0.870 mgd.

22. *Project Sponsor and Facility:* Ultra Resources, Inc. (Elk Run), Gaines Township, Tioga County, PA. Corrective modification to passby flow condition (Docket No. 20090631).

23. *Project Sponsor:* United Water Resources. *Project Facility:* United Water PA—Harrisburg Operation, Newberry Township, York County, PA. Application for groundwater withdrawal of up to 0.172 mgd from Paddletown Well.

Public Hearing—Projects Scheduled for Rescission Action

1. *Project Sponsor and Facility:* Chesapeake Appalachia, LLC (Susquehanna River) (Docket No. 20080903), Town of Tioga, Tioga County, N.Y.

2. *Project Sponsor and Facility:* Chesapeake Appalachia, LLC (Susquehanna River) (Docket No. 20080906), Athens Township, Bradford County, PA.

3. *Project Sponsor and Facility:* Chesapeake Appalachia, LLC (Susquehanna River) (Docket No. 20080907), Oakland Township, Susquehanna County, PA.

4. *Project Sponsor and Facility:* East Resources, Inc. (Tioga River) (Docket No. 20080609), Mansfield, Richmond Township, Tioga County, PA.

5. *Project Sponsor and Facility:* Montrose Country Club (Docket No. 20020603), Bridgewater Township, Susquehanna County, PA.

Public Hearing—Request for Administrative Hearing

1. Petitioner Delta Borough, York County, Pennsylvania; RE: Delta Borough Public Water Supply Well No. DR-2; Docket No. 20090315, approved March 12, 2009.

Opportunity to Appear and Comment

Interested parties may appear at the above hearing to offer written or oral comments to the Commission on any matter on the hearing agenda, or at the business meeting to offer written or oral comments on other matters scheduled for consideration at the business meeting. The chair of the Commission reserves the right to limit oral statements in the interest of time and to otherwise control the course of the hearing and business meeting. Written comments may also be mailed to the Susquehanna River Basin Commission, 1721 North Front Street, Harrisburg, Pennsylvania 17102-2391, or submitted electronically to Richard A. Cairo, General Counsel, e-mail: rcairo@srbc.net or Stephanie L. Richardson, Secretary to the Commission, e-mail: srichardson@srbc.net. Comments mailed or electronically submitted must be received prior to September 4, 2009, to be considered.

Authority: Public Law 91-575, 84 Stat. 1509 *et seq.*, 18 CFR parts 806, 807, and 808

Dated: August 11, 2009.

Thomas W. Beauduy,
Deputy Director.

[FR Doc. E9-20071 Filed 8-19-09; 8:45 am]

BILLING CODE 7040-01-P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA-2009-0008]

Beall Corporation; Grant of Application for a Temporary Exemption From FMVSS No. 224

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Grant of petition for temporary exemption.

SUMMARY: In accordance with 49 CFR part 555, this notice grants the Beall Corporation's application for a temporary exemption from the requirements of Federal Motor Vehicle Safety Standard ("FMVSS") No. 224, "Rear Impact Protection." The exemption applies to the company's dump body trailers. The basis for the grant is that compliance would cause substantial economic hardship to a manufacturer that has tried in good faith to comply with the standard. The exemption is effective for three years.

DATES: The exemption from the applicable FMVSS is effective from August 20, 2009 through August 20, 2012.

FOR FURTHER INFORMATION CONTACT: Ari Scott, Office of the Chief Counsel, NCC-112, National Highway Traffic Safety Administration, 1200 New Jersey Avenue, SE., West Building 4th Floor, Room W41-326, Washington, DC 20590. Telephone: (202) 366-2992; Fax: (202) 366-3820; E-mail ari.scott@dot.gov.

SUPPLEMENTARY INFORMATION:

a. Rear Impact Protection

FMVSS No. 224, *Rear Impact Protection*, requires all trailers with a gross vehicle weight rating (GVWR) of 4,536 kilograms (kg) (10,000 pounds) or more be fitted with a rear impact guard that conforms to FMVSS No. 223, "Rear impact guards." This requirement, however, has presented problems for certain specialized vehicles, such as road construction vehicles, where interaction between the rear impact guard and the specialized paving or dumping equipment can cause engineering hurdles. In accordance with 49 U.S.C. 30113 and the procedures in 49 CFR part 555, Beall Corporation, d/b/a Power Truckweld ("Beall"), a dump body trailer manufacturer, petitioned the agency for a temporary exemption from the rear impact protection requirements in FMVSS No. 224 (49

CFR 571.224) based on economic hardship.¹

b. Statutory Background of Petition for Economic Hardship

The National Traffic and Motor Vehicle Safety Act (Vehicle Safety Act), codified as 49 U.S.C. Chapter 301, provides the Secretary of Transportation authority to exempt, on a temporary basis and under specified circumstances, motor vehicles from a motor vehicle safety standard or bumper standard. This authority is set forth at 49 U.S.C. 30113. The Secretary has delegated the authority for this section to NHTSA.

NHTSA established Part 555, "Temporary Exemption from Motor Vehicle Safety and Bumper Standards," to implement the statutory provisions concerning temporary exemptions. Vehicle manufacturers may apply for temporary exemptions on several bases, one of which is substantial economic hardship to a manufacturer that has tried to comply with the standard in good faith. A petitioner must provide specified information in submitting a petition for exemption. These requirements are specified in 49 CFR 555.5 and 555.6, and include a number of items, including the reasons why the exemption would be in the public interest and consistent with the objectives of 49 U.S.C. Chapter 301. A manufacturer is eligible to apply for a hardship exemption if its total motor vehicle production in the year preceding the filing of its application did not exceed 10,000 vehicles (49 CFR 555.6(a)(2)(v)).

c. The Petition

Beall manufactures trailers in Washington and Oregon. The company has been in existence for over a decade. Beall requested an exemption for a period of three years upon the grant of the petition. The following is a brief summary of the salient points of Beall's petition. More complete information can be found by examining the notice of receipt or the petition itself, available in the NHTSA docket (NHTSA-2009-0008).

In its petition, Beall stated that the total number of vehicles produced in the 12-month period prior to filing the petition was 79. Of those vehicles, 64 were dump body type trailers that would be covered by the requested

temporary exemption. The largest number of Dump Body trailers the petitioner sold in recent years is 79 in 2005.

Beall stated that the denial of the requested exemption will result in substantial economic hardship. According to the statements of the petitioner, the denial of exemption could cost the company 40 percent of its projected sales during the period covered by the exemption, a situation which could cause the layoff of 100% of its employees. Additionally, Beall asserted that if the exemption is denied, it would lose the entire \$800,000 goodwill investment associated with the 2001 purchase of Pioneer Truckweld. It also noted that several of its competitors, such as Reliance and Columbia Body Manufacturing, have received exemptions from FMVSS No. 224, and that it needs to be able to compete effectively with these entities in the dump body trailer sales market, as well as the dump body truck market, as many customers will not allow a manufacturer to bid on a dump body truck if they cannot supply a dump body trailer.

Beall also provided specific financial information with its statement for the years 2004 through 2006. In 2004, it indicated that it posted a loss of over \$200,000. In 2005, that loss was approximately \$138,000. Finally, in 2006, the total loss was over \$53,000. In the event that the petition were denied, Beall estimated that it will lose over \$24,000 in the year following the denial. While Beall did not provide specific financial information regarding the projected financial impact of a grant, it stated that such a grant is necessary for the survival of the Power Truckweld division.

The petitioner believed that it is impossible to estimate the cost of compliance because the method by which compliance may be achieved is unknown at this time, and requires substantial further engineering analysis. Beall stated that it has tried, unsuccessfully, to design or outsource the design of a device that would satisfy FMVSS No. 224 for dump body trailers.

In explaining why it has not been currently able to meet the rear impact protection requirements, Beall pointed to a number of technical challenges associated with designing a compliant rear impact protection system. Namely, it stated that a device designed to satisfy FMVSS No. 224 for dump body applications must also be capable of moving clear, so that the hopper of the paving machines can pass through the space initially occupied by the rear impact protection device. It argued that

if the paving machine cannot position itself underneath the dump body, the asphalt will spill out as the dump body raises and unloads the asphalt. The petitioner stated that it has been pursuing the design of acceptable systems in a joint project with the Mechanical Engineering department at Montana State University, using techniques such as Finite Element analysis and physical testing devices. In addition, it claimed to have designed acceptable guards for a number of non-asphalt paving applications.

Beall stated it has considered several alternative means of compliance. These include plastically deforming devices and hinged and retractable devices. However, the petitioner believed that there are a number of problems with regard to these solutions. First, due to clearance issues, space for retractable devices is not readily available, and redesign of the vehicle to accommodate such devices could result in decreased stability. Second, the petitioner stated that asphalt paving surface has the effect of rendering these sorts of devices unusable over time. Finally, Beall noted that trailers could be operated with these devices in the retracted position, resulting in no safety benefits.

Beall stated that under a temporary exemption, it would continue to pursue a compliant rear impact protection device that would meet the current standards, including attachment and methods of maintenance to ensure proper function while in service. The petitioner stated that it will continue to work with others in the paving industry to develop an acceptable solution.

Beall's believed that the public interest would benefit from this exemption, stating the following:

It would be in the public's interest to allow Pioneer Truckweld to manufacture the equipment required to improve and expand the road building effort in the Western United States while an intense effort is maintained by Pioneer Truckweld to design an acceptable under ride device that will perform well in a paving operation.

Additionally, in its petition, Beall noted that the failure to receive an exemption could cause the closure of the Pioneer Truckweld operation and the layoff of 38 employees in U.S. operations.

d. Notice of Receipt

On February 12, 2009 (74 FR 7102), we published a notice announcing receipt of an application from Beall for a temporary exemption from the requirements of FMVSS No. 224 for its dump body trailer designs. We invited public comment on Beall's application,

¹ In accordance with the requirements of 49 U.S.C. 30113(b)(2), we published a notice of receipt of the application and asked for public comments. To view the application, notice, or response to the notice (no comments were received), please go to: <http://www.regulations.gov> (Docket No. NHTSA-2009-0008).

but received no comment in response to the publication.

e. Final Decision

We are granting Beall's petition for exemption. The manufacturer satisfies the criterion that its total motor vehicle production in its most recent year of production does not exceed 10,000. In its petition, Beall noted that it produced 79 vehicles in the 12 months period prior to requesting the exemption, of which 64 were dump body type trailers that would be covered by the requested temporary exemption. Based on this, we conclude that Beall is eligible for the requested exemption.

The agency may grant such a petition if it finds that the petitioner would suffer financial hardship if an exemption were not granted, that the petitioner has tried in good faith to comply with the standard, and that an exemption would be in the public interest and consistent with the purposes of the Vehicle Safety Act.

The fundamental problem which is causing Beall to be unable to fully comply with the rear impact requirements relates to the design and function of the vehicle. As stated in the petition for exemption, the bodies at issue are raised as to discharge out of the rear. Therefore, they require the area to the rear of the vehicle, where the rear impact protection material would ordinarily be located, to be clear enough for the discharge to proceed smoothly. Despite significant expenditures of capital and labor in pursuit of compliance, Beall was unable to bring its vehicle into compliance. While engineering research and possible alternative solutions are being considered, the company currently requires a temporary exemption in order to sell its vehicles in their current state.

Beall has shown the necessary aspects to receive a temporary exemption on the basis of financial hardship. These include demonstrated financial hardship, good faith efforts to comply with the standard, and a showing that receiving the exemption would be in the public interest. We discuss these below.

First, Beall's financial statements show substantial financial hardship. As stated above, Beall estimates that it could lose substantial money if it is unable to sell its dump body trailers. Furthermore, given the economic downturn in recent months, we believe that it is likely that Beall's economic condition has deteriorated further since it originally submitted its petition.

Second, the petitioner has shown a good faith effort to comply with the standard. Again, as stated above, the petitioner has undertaken substantial

research and design efforts in order to try and comply with the standard. It has worked on designing internal solutions, partnered with the Mechanical Engineering department at Montana State University, and tried to find third-party suppliers that could design equipment that could overcome the formidable design challenges. It has also searched for alternative means of compliance, such as plastically deforming devices and mounting the box higher on the vehicle. Finally, it continues to work on design changes that could allow it to comply with the full FMVSSs.

Third, we believe that the public interest is served by granting this exemption. There is a problem in practicability in complying with the requirements of the standard. This is a trailer that requires a controlled release of the materials from the dump body, which complicates the ability to install a rear impact protection system that does not interfere with the trailer's operation. Additionally, these trailers are used primarily in road construction applications, thereby removing them generally from the flow of traffic (although they may still be used in some in-traffic situations, such as transport to and from road construction sites). Coupled with the very low number of vehicles expected to be produced during the temporary exemption, the negative safety impact of the exemption will be insignificant. In contrast, permitting this type of vehicle to be sold to the public serves the public interest.

Public Interest Considerations. Dump body trailers are used primarily for road-paving and other construction tasks, and frequently discharge road material via the rear of the vehicle. In considering whether granting a petition is in the public interest, NHTSA also considers the impact of not granting the exemption on consumer choice and the economy, as well as the relative impact of the exemption on safety. Beall states that the failure to receive an exemption could cause the closure of the Pioneer Truckweld operation and the layoff of 38 employees in U.S. operations. Given the relatively few companies that produce these sort of specialized trailers, we believe that the exemption would have benefits with regard to enhancing consumer choice and facilitating construction projects. Also, we note again that given the relatively low number of vehicles produced by the petitioner over its history, and the fact that they are primarily used in road construction tasks as opposed to being driven in the flow of traffic, the safety impact of the lack of required rear

impact protection equipment is likely to be relatively small.

In consideration of the foregoing, we conclude that compliance with the requirements of FMVSS No. 224, *Rear Impact Protection*, would cause substantial economic hardship to a manufacturer that has tried in good faith to comply with the standard. We further conclude that granting of an exemption would be in the public interest and consistent with the objectives of traffic safety.

In accordance with 49 U.S.C. 30113(b)(3)(B)(i), Beall Corporation is granted NHTSA Temporary Exemption No. EX 09-03, from FMVSS No. 224. The exemption covers only dump body trailers manufactured by the company. The exemption shall remain for three years as indicated in the **DATES** section of this notice.

(49 U.S.C. 30113; delegations of authority at 49 CFR 1.50. and 501.8)

Issued on: August 14, 2009.

Ronald L. Medford,

Acting Deputy Administrator.

[FR Doc. E9-19956 Filed 8-19-09; 8:45 am]

BILLING CODE 4910-59-P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Notice of Final Federal Agency Actions on Proposed Highway in Ohio

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of Limitation on Claims for Judicial Review of Actions by FHWA and Other Federal Agencies.

SUMMARY: This notice announces actions taken by the FHWA and other Federal agencies that are final within the meaning of 23 U.S.C. § 139(J)(1). The actions relate to a proposed highway project, the Interstate Routes 70 and 71 and interchanges, in the City of Columbus, Franklin County, State of Ohio (FRA-70-8.93, Project Identification Number 77369). Those actions grant licenses, permits, and approvals for the project.

DATES: By this notice, the FHWA is advising the public of final agency actions subject to 23 U.S.C. § 139(J)(1). A claim seeking judicial review of the Federal agency actions on the highway project will be barred unless the claim is filed on or before February 16, 2010. If the Federal law that authorizes judicial review of a claim provides a time period of less than 180 days for filing such claim, then that shorter time period still applies.

FOR FURTHER INFORMATION CONTACT: Mr. Roger Ryder, Program Delivery Engineer, Federal Highway Administration, 200 North High Street, Columbus, Ohio 43215; telephone: (614) 280-6849; e-mail:

Roger.Ryder@fhwa.dot.gov; FHWA Ohio Division Office's normal business hours are 8 a.m. to 4:30 p.m. (eastern time).

You may also contact Mr. Ferzan Ahmed, Ohio Department of Transportation, 400 E. William Street, Delaware, Ohio 43015; telephone: (740) 833-8367; e-mail:

Ferzan.Ahmed@dot.state.oh.us.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the FHWA and other Federal agencies have taken final agency actions by issuing licenses, permits, and approvals for the following major highway improvements in the State of Ohio: To reconstruct the I-70/I-71/SR 315 freeway system known as Columbus' South Innerbelt and involves changing the I-70 and I-71 lanes assignments, adding additional through lanes on I-70 and I-71 and reconfiguring the I-70/I-71/SR 315 west interchange and the I-70/I-71 east interchange. The improvements will also consolidate access to the downtown area by moving ramps to the periphery of the I-70/I-71 overlap section and compelling motorists traveling to and from downtown Columbus to use one-way urban corridor streets. Motorists will access downtown Columbus via one-way urban corridor streets that run parallel to the north side of the I-70/I-71 overlap and along both sides of I-71. These streets collect traffic from the freeway to distribute it throughout the downtown. The Mound Street corridor will be used for westbound traffic along the I-70/I-71 overlap and the Fulton Street corridor for eastbound traffic. Along I-71 traffic will utilize Lester Drive and Willow Alley for southbound traffic while northbound traffic will use a new urban corridor street parallel to Parsons Avenue. The improvements will provide for three (3) through lanes in each direction for I-70, two (2) through lanes in each direction for I-71 and the elimination of the weaving between interstate routes in the overlap section by keeping the I-70 lanes to the inside and bringing the I-71 lanes along the outside. The project length is approximately 8.7 miles.

The actions by the Federal agencies, and the laws under which such actions were taken, are described in the Environmental Assessment (EA) for the project, approved on January 14, 2009, in the Finding of No Significant Impact (FONSI) issued on July 8, 2009, and in other documents in the FHWA

administrative record. The EA, FONSI, and other documents in the FHWA administrative record file are available by contacting the FHWA or the Ohio Department of Transportation at the addresses provided above. The EA and FONSI can be viewed at ODOT District 6 Office in Delaware, Ohio and on ODOT's Web site at <http://www.7071study.org>.

This notice applies to all Federal agency decisions as of the issuance date of this notice and all laws under which such actions were taken, including but not limited to:

1. *General:* National Environmental Policy Act (NEPA) [42 U.S.C. 4321-4351]; Federal-Aid Highway Act [23 U.S.C. 109].

2. *Air:* Clean Air Act, 42 U.S.C. 7401-7671(q).

3. *Land:* Section 4(f) of the Department of Transportation Act of 1966 [49 U.S.C. 303]; Landscaping and Scenic Enhancement (Wildflowers), 23 U.S.C. 319.

4. *Wildlife:* Endangered Species Act [16 U.S.C. 1531-1544 and section 1536], Marine Mammal Protection Act [16 U.S.C. 1361], Fish and Wildlife Coordination Act [16 U.S.C. 661-667(d)], Migratory Bird Treaty Act [16 U.S.C. 703-712].

5. *Historic and Cultural Resources:* Section 106 of the National Historic Preservation Act of 1966, as amended [16 U.S.C. 470(f) *et seq.*]; Archeological Resources Protection Act of 1977 [16 U.S.C. 470(aa)-11]; Archeological and Historic Preservation Act [16 U.S.C. 469-469(c)]; Native American Grave Protection and Repatriation Act (NAGPRA) [25 U.S.C. 3001-3013].

6. *Social and Economic:* Civil Rights Act of 1964 [42 U.S.C. 2000(d)-2000(d)(1)]; American Indian Religious Freedom Act [42 U.S.C. 1996]; Farmland Protection Policy Act (FPPA) [7 U.S.C. 4201-4209].

7. *Wetlands and Water Resources:* Land and Water Conservation Fund (LWCF), 16 U.S.C. 4601-4604; Safe Drinking Water Act (SDWA), 42 U.S.C. 300(f)-300(j)(6); Rivers and Harbors Act of 1899, 33 U.S.C. 401-406; Wild and Scenic Rivers Act, 16 U.S.C. 1271-1287; Emergency Wetlands Resources Act, 16 U.S.C. 3921, 3931; TEA-21 Wetlands Mitigation, 23 U.S.C. 103(b)(6)(m), 133(b)(11); Flood Disaster Protection Act, 42 U.S.C. 4001-4128.

8. *Executive Orders:* E.O. 11990 Protection of Wetlands; E.O. 11988 Floodplain Management; E.O. 12898 Federal Actions to Address Environmental Justice in Minority Populations and Low Income Populations; E.O. 11593 Protection and Enhancement of Cultural Resources;

E.O. 13007 Indian Sacred Sites; E.O. 13287 Preserve America; E.O. 13175 Consultation and Coordination with Indian Tribal Governments; E.O. 11514 Protection and Enhancement of Environmental Quality; E.O. 13112 Invasive Species.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Authority: 23 U.S.C. 139(l)(1).

Issued on August 13, 2009.

Patrick A. Bauer,

Acting Division Administrator, Columbus, Ohio.

[FR Doc. E9-20068 Filed 8-19-09; 8:45 am]

BILLING CODE 4910-RY-P

DEPARTMENT OF THE TREASURY

Community Development Financial Institutions Fund

Funding Opportunity Title: Notice of Funds Availability (NOFA) inviting applications for the FY 2010 Funding Round of the Native American CDFI Assistance (NACA) Program.

Announcement Type: Announcement of funding opportunity.

Catalog of Federal Domestic Assistance (CFDA) Number: 21.020

DATES: Applications for Financial Assistance (FA) and/or Technical Assistance (TA) awards through the FY 2010 Funding Round of the NACA Program must be received by 5 p.m. Eastern Time (ET), October 7, 2009.

Executive Summary: Subject to funding availability, this NOFA is issued in connection with the FY 2010 Funding Round of the NACA Program (the FY 2010 Funding Round). The NACA Program is administered by the Community Development Financial Institutions Fund (the Fund).

I. Funding Opportunity Description

A. Through the NACA Program, the Fund provides: (i) FA awards to CDFIs that have at least 50 percent of their activities directed toward serving Native American, Alaskan Native, and/or Native Hawaiian Communities (Native CDFIs) that have Comprehensive Business Plans for creating demonstrable community development impact through the deployment of credit, capital, and financial services within their respective Target Markets or the expansion into new Investment Areas, Low-Income Targeted Populations, or Other Targeted

Populations, and (ii) TA grants to Native CDFIs, entities proposing to become Native CDFIs, and to Native organizations, Tribes, and Tribal organizations that propose to create Native CDFIs (Sponsoring Entities), in order to build their capacity to meet the community development and capital access needs of their existing or proposed Target Markets and/or to become certified Native CDFIs.

B. The regulations governing the CDFI Program are found at 12 CFR part 1805 (the Regulations) and provide guidance on evaluation criteria and other requirements of the NACA Program. The Fund encourages Applicants to review the Regulations. Detailed application content requirements are found in the applicable funding application and related guidance materials. Each capitalized term in this NOFA is more fully defined in the Regulations, the application, or the guidance materials.

C. The Fund reserves the right to fund, in whole or in part, any, all, or none of the applications submitted in response to this NOFA. The Fund reserves the right to re-allocate funds from the amount that is anticipated to be available under this NOFA to other Fund programs, particularly if the Fund determines that the number of awards made under this NOFA is fewer than projected.

II. Award Information

A. *Funding Availability:* Through this NOFA, and subject to funding availability, the Fund expects that it may award approximately \$12 million in appropriated funds in the FY 2010 Funding Round. The Fund reserves the right to award in excess of \$12 million in appropriated funds to Applicants in the FY 2010 Funding Round, provided that the funds are available and the Fund deems it appropriate.

B. *Availability of Funds for the FY 2010 Funding Round:* Funds for the FY 2010 Funding Round have not yet been appropriated. If funds are not appropriated for the FY 2010 Funding Round, there will not be a FY 2010 Funding Round. Further, it is possible that if funds are appropriated for the FY 2010 Funding Round, the amount of such funds may be greater than or less than the amounts set forth above. Further, if funds for the FY 2010 Funding Round are not appropriated, entities that are eligible to apply for CDFI Program funds and that might otherwise have applied for NACA Program funds are encouraged to apply for funds through the FY 2010 Funding Round of the CDFI Program.

C. *Types of Awards:* An Applicant may submit an application either for: (i)

A FA-only award; (ii) a FA award and a TA grant; or (iii) a TA-only grant.

1. *FA Awards:* FA is intended to provide flexible financial support to CDFIs so that they may achieve the strategies outlined in their Comprehensive Business Plans. FA awards can be used in the following five categories: (i) Financial Products; (ii) Financial Services; (iii) Development Services; (iv) Loan Loss Reserves, Capital Reserves, or other activities/uses that support the activities in the Applicant's Comprehensive Business Plan; and/or (v) Operations. For purposes of this NOFA, Financial Products means loans, grants, equity investments, and similar financing activities, including the purchase of loans originated by certified CDFIs and the provision of loan guarantees, in the Applicant's Target Market, or for related purposes that the Fund deems appropriate (including administrative funds used to carry out Financial Products). Financial Services means checking and savings accounts, certified checks, automated teller machines services, deposit taking, remittances, safe deposit box services, and other similar services (including administrative funds used to carry out Financial Services). Development Services means activities that promote community development and are integral to the Applicant's provisions of Financial Products and Financial Services (including administrative funds used to carry out Development Services) including, for example, financial or credit counseling, housing and homeownership counseling (pre- and post-), self-employment technical assistance, entrepreneurship training, and financial management skill-building. Loan Loss Reserves means funds that the Applicant will set aside in the form of cash reserves, or through accounting-based accrual reserves, to cover losses on loans, accounts, and notes receivable made in its Target Market, or for related purposes that the Fund deems appropriate (including administrative funds used to carry out Loan Loss Reserves). Capital Reserves means funds that the Applicant will set aside in the form of reserves to support the Applicant's ability to leverage other capital, for such purposes as increasing its net assets or serving the financing needs of its Target Market, or for related purposes that the Fund deems appropriate (including administrative funds used to carry out Capital Reserves). Operations means funds that the Applicant will use to carry out its Comprehensive Business Plan, and/or for related purposes that the Fund

deems appropriate, that are not used to carry out or administer any of the foregoing eligible FA uses. FA awards are most commonly used for an Applicant's Financial Products since FA funds can be used to support the Applicant's community development lending activities.

The Fund may provide FA awards in the form of equity investments (including, in the case of certain Insured Credit Unions, secondary capital accounts), grants, loans, deposits, credit union shares, or any combination thereof. The Fund reserves the right, in its sole discretion, to provide a FA award in a form and amount other than that which the Applicant requests; however, the award amount will not exceed the Applicant's award request as stated in its application. The Fund reserves the right, in its sole discretion, to provide a FA award to an Applicant on the condition that the Applicant agrees to use a TA grant for specified capacity-building purposes, even if the Applicant has not requested a TA grant. FA awards must be used to support the Applicant's activities; FA awards cannot be used to support the activities of, or otherwise be "passed through" to, third-party entities, whether Affiliates, Subsidiaries, or others, without the prior written permission of the Fund.

2. TA Grants:

(a) The Fund provides TA awards in the form of grants. The Fund reserves the right, in its sole discretion, to provide a TA grant for uses and amounts other than that which the Applicant requests; however, the award amount will not exceed the Applicant's award request as stated in its application and the applicable budget chart.

(b) TA grants may be used to address a variety of needs including, but not limited to, development of strategic planning documents (such as strategic or capitalization plans), market analyses or product feasibility analyses, operational policies and procedures, curricula for Development Services (such as entrepreneurial training, home buyer education, financial education or training, or borrower credit repair training), improvement of underwriting and portfolio management, development of outreach and training strategies to enhance product delivery, operating support to expand into a new eligible market, and tools that allow the Applicant to assess the impact of its activities in its community.

(c) Eligible TA grant uses include, but are not limited to: (i) Procuring professional services; (ii) acquiring/enhancing technology items, including computer hardware, software, and

Internet connectivity and related management information systems; (iii) acquiring training for staff, management, and/or board members; and (iv) paying recurring expenses, including staff salary and other key operating expenses, that will enhance the capacity of the Applicant to serve its Target Market and/or to become certified as a Native CDFI or to create a Native CDFI.

D. Notice of Award; Assistance Agreement: Each Awardee under this

NOFA must sign a Notice of Award and an Assistance Agreement in order to receive a disbursement of award proceeds by the Fund. The Notice of Award and the Assistance Agreement contain the terms and conditions of the award. For further information, see Sections VI.A and VI.B of this NOFA.

III. Eligibility Information

A. Eligible Applicants: The Regulations specify the eligibility

requirements that each Applicant must meet in order to be eligible to apply for assistance under this NOFA. The following sets forth additional detail and dates that relate to the submission of applications under this NOFA:

1. *FA Applicant Categories:* All Applicants for FA awards through this NOFA must meet the following criteria:

TABLE 1—FA APPLICANT CRITERIA

FA applicant category	Applicant criteria	Applicant may apply for:	Application deadline
Native CDFI	A Certified/Certifiable Native CDFI that meets all other eligibility requirements described in this NOFA.	Up to and including \$750,000 in FA funds, and up to and including \$150,000 in TA funds.	5:00 p.m. ET, October 7, 2009.

Please note: The Fund reserves the right, in its sole discretion, to award amounts in excess of or less than the anticipated

maximum award amounts permitted in this NOFA, if the Fund deems it appropriate.

2. *TA Applicants:* All Applicants for TA grants through this NOFA must meet the following criteria:

TABLE 2—TA APPLICANT CRITERIA

Applicant type	Criteria of applicant	Applicant can apply for:	Application due date
TA—Only	A Certified Native CDFI, a Certifiable Native CDFI, an Emerging Native CDFI, or a Sponsoring Entity.	Up to \$150,000 for capacity-building activities	5:00 p.m. ET, October 7, 2009.
FA/TA	A Certified Native CDFI or a Certifiable Native CDFI.	Up to \$150,000 in TA for capacity-building activities	5:00 p.m. ET, October 7, 2009.

The Fund, in its sole discretion, reserves the right to award amounts less than the anticipated maximum award amounts permitted in this NOFA, if the Fund deems it appropriate.

3. *Native CDFI Certification*

Requirements: For purposes of this NOFA, eligible FA Applicants include Certified Native CDFIs and Certifiable Native CDFIs; eligible TA Applicants include Certified Native CDFIs, Certifiable Native CDFIs, Emerging Native CDFIs, and Sponsoring Entities, defined as follows:

(a) *Certified Native CDFIs:* For purposes of this NOFA, a Certified Native CDFI is an entity that has received official notification from the Fund that it meets all CDFI certification requirements as of the date of publication of this NOFA, the certification of which has not expired and that has not been notified by the Fund that its certification has been terminated. In cases where the Fund provided Native CDFIs with written notification that their certifications had been extended, the Fund will consider the extended certification date (the later date) to determine whether those Native CDFIs meet this eligibility requirement. When applicable, each such Applicant

must submit a Certification of Material Events form to the Fund not later than September 16, 2009 (see Table 3—FY 2010 NACA Program Deadlines). The Certification of Material Events form can be found on the Fund’s Web site at <http://www.CDFIfund.gov>.

(b) *Certifiable Native CDFIs:* For purposes of this NOFA, a Certifiable Native CDFI is an entity from which the Fund has received a complete CDFI Certification application no later than September 16, 2009 (see Table 3—FY 2010 NACA Program Deadlines), evidencing that the Applicant meets the requirements to be certified as a Native CDFI. The CDFI Certification application can be found on the Fund’s Web site at <http://www.CDFIfund.gov>. If the Fund is unable to certify the organization as a Native CDFI based on the CDFI certification application submitted to the Fund, it is in the sole discretion of the Fund to terminate the Notice of Award and the award commitment. While a Certifiable Native CDFI may be conditionally selected for a FA award (as evidenced through the Notice of Award), the Fund will not enter into an Assistance Agreement or disburse award funds unless and until

the Fund has officially certified the organization as a Native CDFI.

(c) *Emerging Native CDFIs:* For purposes of this NOFA, an Emerging Native CDFI is an entity that demonstrates to the Fund’s satisfaction that it has a reasonable plan to be a certified Native CDFI within two calendar years after both entities enter into an Assistance Agreement or such other date selected by the Fund. Emerging Native CDFIs may apply for TA grants only and are not eligible to apply for FA awards. Each Emerging Native CDFI selected to receive a TA grant will be required, pursuant to its Assistance Agreement with the Fund, to become certified as a Native CDFI by a certain date.

(d) *Sponsoring Entities:* For the purposes of this NOFA, a Sponsoring Entity is an entity that proposes to create a separate legal entity that will become a certified Native CDFI. For purposes of this NOFA, Sponsoring Entities include: (a) A Tribe, Tribal entity, Alaska Native Village, Village Corporation, Regional Corporation, Non-Profit Regional Corporation/Association, or Inter-Tribal or Inter-Village organization; or (b) an organization whose primary mission is to serve a

Native Community including, but not limited to, an Urban Indian Center, Tribally Controlled Community College, community development corporation (CDC), training or education organization, or Chamber of Commerce, and that primarily serves a Native Community (meaning, at least 50 percent of its activities are directed toward the Native Community). Sponsoring Entities may only apply for TA grants; they are not eligible to apply for FA awards. Each Sponsoring Entity that is selected to receive a TA grant will be required, pursuant to its Assistance Agreement with the Fund, to create a legal entity by a certain date that will, in turn, seek Native CDFI certification and to transfer available award funds to that Native CDFI upon certification.

4. Limitation on Awards: An Applicant may receive only one FA award through the FY 2010 Funding Round of the CDFI Program or the NACA Program. No Applicant may also receive a FY 2010 Bank Enterprise Award (BEA) Program award (subject to certain limitations; refer to the Regulations at 12 CFR 1805.102). An NACA Program Applicant, its Subsidiaries, or Affiliates also may apply for and receive a tax credit allocation through the New Markets Tax Credit (NMTC) Program, but only to the extent that the activities approved for NACA Program awards are different from those activities for which the Applicant receives a NMTC Program allocation.

B. Prior Awardees: Applicants must be aware that success in a prior round of any of the Fund's programs is not indicative of success under this NOFA. For purposes of this section, the Fund will consider an Affiliate to be any entity that meets the definition of Affiliate in the Regulations or an entity otherwise identified as an Affiliate by the Applicant in its funding application under this NOFA. Prior Awardees should note the following:

1. \$5 million Funding Cap: Congress waived the \$5 million funding cap for the FY 2009 Funding Round, and it is possible that the \$5 million funding cap may be waived for the FY 2010 Funding Round as well. As of the publication date of this NOFA, however, such a waiver has not been enacted into law. Accordingly, the Fund is currently prohibited from obligating more than \$5 million in assistance, in the aggregate, to any one organization and its Subsidiaries and Affiliates during any three-year period. In general, the three-year period extends back three years from the date that the Fund signs a Notice of Award; for purposes of this

NOFA, and for ease of administration, the Fund will consider any assistance documented with a Notice of Award dated between October 1, 2007 and October 1, 2010 (which is the anticipated date that the Fund will issue Notices of Award for the FY 2010 Funding Round). However, in light of the possibility of a waiver of the \$5 million funding cap, an Applicant who is otherwise eligible under this NOFA, and is requesting an award amount that would cause the Applicant to exceed the \$5 million funding cap, should submit an Application under this NOFA. The Fund will assess applicability of the \$5 million funding cap during the award selection phase based upon whether the Congressional waiver has been enacted at that time.

2. Failure to Meet Reporting Requirements: The Fund will not consider an application submitted by an Applicant if the Applicant, or an Affiliate of the Applicant, is a prior Awardee or allocatee under any Fund program and is not current on the reporting requirements set forth in a previously executed assistance, allocation, or award agreement(s), as of the applicable application deadline of this NOFA. Please note that the Fund only acknowledges the receipt of reports that are complete. As such, incomplete reports or reports that are deficient of required elements will not be recognized as having been received.

3. Pending Resolution of Noncompliance: If an Applicant is a prior Awardee or allocatee under any Fund program and if (i) it has submitted complete and timely reports to the Fund that demonstrate noncompliance with a previous assistance, allocation, or award agreement, and (ii) the Fund has yet to make a final determination as to whether the entity is in default of its previous assistance, allocation, or award agreement, the Fund will consider the Applicant's application under this NOFA pending full resolution, in the sole determination of the Fund, of the noncompliance. Further, if an Affiliate of the Applicant is a prior Fund Awardee or allocatee and if such entity (i) has submitted complete and timely reports to the Fund that demonstrate noncompliance with a previous assistance, allocation, or award agreement and (ii) the Fund has yet to make a final determination as to whether the entity is in default of its previous assistance, allocation, or award agreement, the Fund will consider the Applicant's application under this NOFA pending full resolution, in the sole determination of the Fund, of the noncompliance.

4. Default Status: The Fund will not consider an application submitted by an Applicant that is a prior Awardee or allocatee under any Fund program if, as of the applicable application deadline of this NOFA, the Fund has made a final determination that such Applicant is in default of a previously executed assistance, allocation, or award agreement(s). Further, an entity is not eligible to apply for an award pursuant to this NOFA if, as of the applicable application deadline of this NOFA, the Fund has made a final determination that an Affiliate of the Applicant is a prior Awardee or allocatee under any Fund program and has been determined by the Fund to be in default of a previously executed assistance, allocation, or award agreement(s). Such entities will be ineligible to apply for an award pursuant to this NOFA so long as the Applicant's, or its Affiliate's, prior award or allocation remains in default status or such other time period as specified by the Fund in writing.

5. Termination in Default: The Fund will not consider an application submitted by an Applicant that is a prior Awardee or allocatee under any Fund program if (i) within the 12-month period prior to the applicable application deadline of this NOFA, the Fund has made a final determination that such Applicant's prior award or allocation terminated in default of a previously executed assistance, allocation, or award agreement(s), and (ii) the final reporting period end date for the applicable terminated assistance, allocation, or award agreement(s) falls within the 12-month period prior to the application deadline of this NOFA. Further, an entity is not eligible to apply for an award pursuant to this NOFA if (i) within the 12-month period prior to the applicable application deadline, the Fund has made a final determination that an Affiliate of the Applicant is a prior Awardee or allocatee under any Fund program whose award or allocation terminated in default of a previously executed assistance, allocation, or award agreement(s), and (ii) the final reporting period end date for the applicable terminated assistance, allocation, or award agreement(s) falls within the 12-month period prior to the application deadline of this NOFA.

6. Undisbursed Award Funds: The Fund will not consider an application submitted by an Applicant that is a prior Awardee under any Fund program if the Applicant has a balance of undisbursed award funds (as defined below) under said prior award(s), as of the applicable application deadline of this NOFA. Further, an entity is not eligible to apply for an award pursuant

to this NOFA if an Affiliate of the Applicant is a prior Awardee under any Fund program, and has a balance of undisbursed award funds under said prior award(s), as of the applicable application deadline of this NOFA. In a case where another entity that Controls the Applicant, is Controlled by the Applicant, or shares common management officials with the Applicant (as determined by the Fund) is a prior Awardee under any Fund program and has a balance of undisbursed award funds under said prior award(s), as of the applicable application deadline of this NOFA, the Fund will include the combined awards of the Applicant and such Affiliated entities when calculating the amount of undisbursed award funds.

For purposes of the calculation of undisbursed award funds for the BEA Program, only awards made to the Applicant (and any Affiliates) three to five calendar years prior to the end of the calendar year of the application deadline of this NOFA are included ("includable BEA awards"). Thus, for purposes of this NOFA, undisbursed BEA Program award funds are the amount of FY 2004, 2005, and 2006 awards that remain undisbursed as of the application deadline of this NOFA.

For purposes of the calculation of undisbursed award funds for the CDFI Program and the Native Initiatives Funding Programs, only awards made to the Applicant (and any Affiliates) two to five calendar years prior to the end of the calendar year of this NOFA are included ("includable CDFI/NI awards"). Thus, for purposes of this NOFA, undisbursed CDFI Program and NI awards are the amount of FYs 2004, 2005, 2006, and 2007 awards that remain undisbursed as of the application deadline of this NOFA. The term "Native Initiatives Funding Programs" refers to the NACA Program and all prior Native American funding programs sponsored by the Fund, through which funds are no longer available, including the Native American CDFI Technical Assistance (NACTA) Component of the CDFI Program, the Native American CDFI Development (NACD) Program, and the Native American Technical Assistance (NATA) Component of the CDFI Program.

To calculate total includable BEA/CDFI/NI awards: amounts that are undisbursed as of the application deadline of this NOFA cannot exceed five percent of the total includable awards. Please refer to an example of this calculation on the Fund's Web site, found in the Q&A document for the FY 2010 Funding Round.

The "undisbursed award funds" calculation does not include: (i) Tax credit allocation authority made available through the NMTC Program; (ii) any award funds for which the Fund received a full and complete disbursement request from the Awardee by the applicable application deadline of this NOFA; (iii) any award funds for an award that has been terminated in writing by the Fund or deobligated by the Fund; or (iv) any award funds for an award that does not have a fully executed assistance or award agreement. The Fund strongly encourages Applicants requesting disbursements of "undisbursed funds" from prior awards to provide the Fund with a complete disbursement request at least 10 business days prior to the application deadline of this NOFA.

7. Contact the Fund: Applicants that are prior Fund Awardees are advised to: (i) Comply with requirements specified in assistance, allocation, and/or award agreement(s), and (ii) contact the Fund to ensure that all necessary actions are underway for the disbursement or deobligation of any outstanding balance of said prior award(s). An Applicant that is unsure about the disbursement status of any prior award should contact the Fund's Senior Resource Manager via email at CDFI.disburseinquiries@cdfi.treas.gov.

C. Matching Funds: Congress waived the matching funds requirements for the FY 2009 Funding Round, and it is possible that the matching funds requirements may be waived for the FY 2010 Funding Round as well. As of the publication date of this NOFA, however, such a waiver has not been enacted into law. Accordingly, the Fund encourages Applicants to include matching funds documentation as instructed in the application; if the matching funds waiver is enacted, the Fund will not consider matching funds documentation. An Applicant that does not include matching funds documentation in its application runs the risk of being determined to be ineligible for funding under the FY 2010 Funding Round if said matching funds waiver is not enacted. In light of the possibility of a waiver of the matching funds requirements, an Applicant who would not satisfy the matching funds requirements but is otherwise eligible under this NOFA should submit an application under this NOFA. The Fund will assess applicability of the matching funds requirements during the award selection phase based upon whether the Congressional waiver has been enacted at that time.

Accordingly, subject to the immediately preceding paragraph:

1. Applicants responding to this NOFA must obtain non-Federal matching funds from sources other than the Federal government on the basis of not less than one dollar for each dollar of FA funds provided by the Fund (matching funds are not required for TA grants). Matching funds must be at least comparable in form and value to the FA provided by the Fund. For example, if an Applicant is requesting a FA award from the Fund, the Applicant must show that it has obtained matching funds through commitment(s) from non-Federal sources that are at least equal to the amount requested from the Fund. Applicants cannot use matching funds from a prior FA award under the NACA or CDFI Program or under another Federal grant or award program to satisfy the matching funds requirement of this NOFA. If an Applicant seeks to use as matching funds monies received from an organization that was a prior Awardee under the NACA or CDFI Program, the Fund will deem such funds to be Federal funds, unless the funding entity establishes to the reasonable satisfaction of the Fund that such funds do not consist, in whole or in part, of NACA or CDFI Program funds or other Federal funds. For the purposes of this NOFA, BEA Program awards may be used as matching funds. The Fund encourages Applicants to review the Regulations at 12 CFR 1805.500 *et seq.* and matching funds guidance materials on the Fund's website for further information.

2. Due to funding constraints and the desire to quickly deploy Fund dollars, the Fund will not consider for a FA award any Applicant that has no matching funds in-hand or firmly committed as of the application deadline of this NOFA. An Applicant for a FA award must demonstrate that it has eligible matching funds equal to no less than 25 percent of the amount of the FA award requested in-hand or firmly committed, on or after January 1, 2008, and on or before the application deadline. The Fund reserves the right to rescind all or a portion of a FA award and re-allocate the rescinded award amount to other qualified Applicant(s), if an Applicant fails to obtain in-hand 100 percent of the required matching funds by March 14, 2011 (with required documentation of such receipt received by the Fund not later than March 31, 2011), or to grant an extension of such matching funds deadline for specific Applicants selected to receive FA awards, if the Fund deems it appropriate. For any Applicant that demonstrates that it has less than 100 percent of matching funds in-hand or

firmly committed as of the application deadline, the Fund will evaluate the Applicant's ability to raise the remaining matching funds by March 14, 2011.

3. *Matching Funds Terms Defined; Required Documentation.* (a) "Matching funds in-hand" means the Applicant has actually received the matching funds. If the matching funds are "in-hand," the Applicant must provide the Fund with acceptable written documentation of the source, form, and amount of the matching funds (i.e., grant, loan, deposit, and equity investment). For a loan, the Applicant must provide the Fund with a copy of the loan agreement and promissory note. For a grant, the Applicant must provide the Fund with a copy of the grant letter or agreement for all grants of \$50,000 or more. For an equity investment, the Applicant must provide the Fund with a copy of the stock certificate and any related shareholder agreement. Further, if the matching funds are "in-hand," the Applicant must provide the Fund with acceptable documentation that evidences its receipt of the matching funds proceeds, such as a copy of a check or a wire transfer statement.

(b) "Firmly committed matching funds" means the Applicant has entered into or received a legally binding commitment from the matching funds source that the matching funds will be disbursed to the Applicant. If the matching funds are "firmly committed," the Applicant must provide the Fund with acceptable written documentation to evidence the source, form, and amount of the firm commitment (and, in the case of a loan, the terms thereof), as well as the anticipated date of disbursement of the committed funds.

4. The Fund may contact the matching funds source to discuss the matching funds and the documentation provided by the Applicant. If the Fund determines that any portion of the Applicant's matching funds is ineligible under this NOFA, the Fund, in its sole discretion, may permit the Applicant to offer alternative matching funds as a substitute for the ineligible matching funds; provided, however, that (i) the Applicant must provide acceptable alternative matching funds documentation within two business days of the Fund's request and (ii) the alternative matching funds documentation cannot increase the total amount of Financial Assistance requested by the Applicant.

5. *Special Rule for Insured Credit Unions:* The Regulations allow an

Insured Credit Union to use retained earnings to serve as matching funds for a FA grant in an amount equal to: (i) The increase in retained earnings that has occurred over the Applicant's most recent fiscal year; (ii) the annual average of such increases that has occurred over the Applicant's three most recent fiscal years; or (iii) the entire retained earnings that have been accumulated since the inception of the Applicant, as provided in the Regulations. For purposes of this NOFA, if option (iii) is used, the Applicant must increase its member and/or non-member shares or total loans outstanding by an amount that is equal to the amount of retained earnings that is committed as matching funds. This amount must be raised by the end of the Awardee's second performance period, as set forth in its Assistance Agreement, and will be based on amounts reported in the Applicant's Audited or Reviewed Financial Statements or NCUA Form 5300 Call Report. The Fund will assess the likelihood of this increase during the application review process. An award will not be made to any Applicant that has not demonstrated that it has increased shares or loans by at least 25 percent of the requested FA award amount between December 31, 2008, and December 31, 2009, as demonstrated by the corresponding NCUA report.

IV. Application and Submission Information

A. *MyCDFIFund Accounts:* All Applicants must register User and Organization accounts in myCDFIFund, the Fund's Internet-based interface. An Applicant must be registered as both a User and an Organization in myCDFIFund as of the applicable application deadline in order to be considered to have submitted a complete application. As myCDFIFund is the Fund's primary means of communication with Applicants and Awardees, organizations must make sure that they update the contact information in their myCDFIFund accounts before the applicable application deadline. For more information on myCDFIFund, please see the "Frequently Asked Questions" link posted at <https://www.cdfifund.gov/myCDFI/Help/Help.asp>.

B. *Form of Application Submission:* Applicants must submit applications under this NOFA electronically. Applications sent by mail, facsimile, or other form will not be permitted, except

in circumstances that the Fund, in its sole discretion, deems acceptable.

C. *Applications Submitted via myCDFIFund:* Applicants must submit applications under this NOFA electronically, through myCDFIFund, the Fund's Internet-based interface. Please note that the Fund will not accept applications through Grants.gov. Applications sent by mail, facsimile, or other form will not be accepted except in circumstances approved by the Fund, in its sole discretion. The Fund will post to its Web site at <http://www.cdfifund.gov> instructions for accessing and submitting the application as soon as they become available.

D. *Application Content Requirements:* Detailed application content requirements, including the required elements of the Comprehensive Business Plan, are found in the application and guidance. Each Applicant must provide, as part of its application submission, a Dun and Bradstreet Data Universal Numbering System (DUNS) number pursuant to OMB guidance (68 FR 38402). Applicants should allow sufficient time for the Internal Revenue Service (IRS) and/or Dun and Bradstreet to respond to inquiries and/or requests for identification numbers. In addition, each application must include a valid and current Employer Identification Number (EIN), with a letter or other documentation from the IRS confirming the Applicant's EIN. An electronic application that does not include an EIN is incomplete and cannot be transmitted to the Fund. Once an application is submitted, the Applicant will not be allowed to change any element of the application. The preceding sentences do not limit the Fund's ability to contact an Applicant for the purpose of obtaining clarifying or confirming application information (such as a DUNS number or EIN information).

E. Under the Paperwork Reduction Act (44 U.S.C. chapter 35), an agency may not conduct or sponsor a collection of information, and an individual is not required to respond to a collection of information, unless it displays a valid OMB control number. Pursuant to the Paperwork Reduction Act, the application has been assigned the following control number: 1559-0025.

F. *Application Deadlines:* 1. The following are the deadlines for submission of the NACA Program Funding Application, the CDFI Certification Application, and the Certification of Material Events form:

TABLE 3—FY 2010 NACA PROGRAM DEADLINES
[All 5 p.m. ET deadlines]

Document	Submission deadline	Last date to contact Fund
NACA Program Funding Application	Wednesday, October 7, 2009	Monday, October 5, 2009.
CDFI Certification Application	Wednesday, September 16, 2009	Monday, September 14, 2009.
Certification of Material Events Form	Wednesday, September 16, 2009	Monday, September 14, 2009.

All NACA Program funding applications must be electronic and submitted through myCDFIFund. No paper submittals or attachments will be accepted. Please see the CDFI Certification application for requirements specific to that application.

2. *Late Delivery:* The Fund will neither accept a late application nor any portion of an application that is late; an application that is late, or for which any portion is late, will be rejected. The Fund will not grant exceptions or waivers. Any application that is deemed ineligible will not be returned to the Applicant.

G. *Intergovernmental Review:* Not applicable.

H. *Funding Restrictions:* For allowable uses of FA proceeds, please see the Regulations at 12 CFR 1805.301.

V. Application Review Information

A. *Format:* Funding applications must be single-spaced and use a 12-point font with 1-inch margins. Each section in the application that is scored has page limitations. Applicants are encouraged to read each section carefully and to remain within the page limitations for each section. The Fund will not consider responses beyond the specified page limitation in each section. Also, the Fund will read only information requested in the application and will not read attachments that have not been specifically requested in this NOFA or the application, such as the Applicant's five-year strategic or marketing plans.

B. *Criteria:* The Fund will evaluate each application on a 100-point scale using numeric scores with respect to the five sections required in the application. The Fund will score each section as indicated in the following table:

TABLE 4—APPLICATION SCORING CRITERIA

Application sections	Scoring points
Market Analysis	25
Business Strategy	25
Community Development Performance & Effective Use	20
Management	20

TABLE 4—APPLICATION SCORING CRITERIA—Continued

Application sections	Scoring points
Financial Health & Viability	10

C. *Technical Assistance Proposal:* Any Applicant applying for a TA grant, either alone or in conjunction with a request for an FA award, must complete a Technical Assistance Proposal (TAP) as part of its application. The TAP consists of a summary of the organizational improvements needed to achieve the objectives of the Comprehensive Business Plan, a budget, and a description of the requested goods and/or services comprising the TA award request. The budget and accompanying narrative will be evaluated for the eligibility and appropriateness of the proposed uses of the TA grant (described above). In addition, if the Applicant identifies a capacity-building need related to any of the evaluation criteria above (for example, if the Applicant requires a market need analysis or a community development impact tracking/reporting system), the Fund will assess its plan to use the TA grant to address said needs.

1. *Non-Certified Applicants:* An Applicant that is not a Certified Native CDFI and that requests TA to address certification requirements must explain how the requested TA grant will assist the Applicant in meeting the certification requirements. The Fund will assess the reasonableness of the plan to become certified (as specified above in Section III, Eligibility Information; A.3. Native CDFI Certification Requirements), taking into account the requested TA. For example, if the Applicant does not currently make loans and therefore does not meet the Financing Entity requirement, it might describe how the TA funds will be used to hire a consultant to develop underwriting policies and procedures to support the Applicant's ability to start its lending activity.

2. *Recurring Activities:* An Applicant that requests a TA grant for recurring activities must clearly describe the

benefit that would accrue to its capacity or to its Target Market(s) (such as plans for expansion of staff, market, or products) as a result of the TA grant. If the Applicant is a prior Fund Awardee, it must describe how it has used the prior assistance and explain the need for additional Fund dollars over and above such prior assistance.

D. *Review and Selection Process:* 1. *Eligibility and Completeness Review:* The Fund will review each application to determine whether it is complete and the Applicant meets the eligibility requirements set forth above. An incomplete application does not meet eligibility requirements and will be rejected. Any application that does not meet eligibility requirements will not be returned to the Applicant.

2. *Substantive Review:* If an application is determined to be complete and the Applicant is determined to be eligible, the Fund will conduct the substantive review of the application in accordance with the criteria and procedures described in the Regulations, this NOFA, and the application and guidance. As part of the review process, the Fund may contact the Applicant by telephone, e-mail, mail, or through an on-site visit for the sole purpose of obtaining clarifying or confirming application information (such as statements of work, matching funds documentation, EINs, or DUNS numbers, for example). After submitting its application, the Applicant will not be permitted to revise or modify its application in any way nor attempt to negotiate the terms of an award. If contacted for clarifying or confirming information, the Applicant must respond within the time parameters set by the Fund.

3. *Application Scoring; Ranking:* (a) *Application Scoring:* The Fund will evaluate each application on a 100-point scale, comprising the five criteria categories described above, and assign numeric scores. An Applicant must receive a minimum score in each evaluation criteria in order to be considered for an award.

(b) *Evaluating Prior Award Performance:* In the case of an Applicant that has previously received

funding through any Fund program, the Fund will consider and will deduct points for: (i) The Applicant's noncompliance with any active award or award that terminated in the current calendar year in meeting its performance goals and measures, reporting deadlines, and other requirements set forth in the assistance or award agreement(s) with the Fund during the Applicant's two complete fiscal years prior to the application deadline of this NOFA; (ii) the Applicant's failure to make timely loan payments to the Fund during the Applicant's two complete fiscal years prior to the application deadline of this NOFA (if applicable); (iii) performance on any prior Assistance Agreement as part of the overall assessment of the Applicant's ability to carry out its Comprehensive Business Plan; and (iv) funds deobligated from a FY 2007, 2008, or 2009 FA award (if the Applicant is applying for an FA award under this NOFA) if (A) the amount of deobligated funds is at least \$200,000 and (B) the deobligation occurred within the 12 months prior to the application deadline under this NOFA. Any award deobligations that result in a point deduction for an application submitted under this NOFA will not be counted against future applications for FA through the NACA Program. In the case of an Applicant that has previously received funding through any Fund program, the Fund will consider and may, in its discretion, deduct points for those Applicants that have in any proceeding instituted against the Applicant in, by, or before any court, governmental, or administrative body or agency received a final determination within the last three years indicating that the Applicant has discriminated on the basis of race, color, national origin, disability, age, marital status, receipt of income from public assistance, religion, or sex.

(c) *Ranking*: The Fund then will rank the applications by their scores, from highest to lowest.

4. *Award Selection*: The Fund will make its final award selections based on the rank order of Applicants by their scores and the amount of funds available. In the case of tied scores, Applicants will be ranked according to each Applicant's combined scores in the Market Analysis, Business Strategy, and Community Development Performance & Effective Use sections; then the score on the Financial Health and Viability section; then the score on the Management section. In addition, the Fund shall consider the institutional and geographic diversity of Applicants when making its funding decisions.

5. *Insured Native CDFIs*: In the case of Insured Depository Institutions and Insured Credit Unions, the Fund will take into consideration the views of the Appropriate Federal Banking Agencies. In the case of State-Insured Credit Unions, the Fund may consult with the appropriate state banking agencies (or comparable entity). The Fund will not approve an FA award to any Insured Credit Union (other than a State-Insured Credit Union) or Insured Depository Institution Applicant for which its Appropriate Federal Banking Agency indicates it has safety and soundness concerns, unless the Appropriate Federal Banking Agency asserts, in writing, that (i) improvement in status is imminent and such improvement is expected to occur within the next nine months or within such other time frame deemed acceptable by the Fund, or (ii) the safety and soundness condition of the Applicant is adequate to undertake the activities for which the Applicant has requested an FA award and the obligations of an Assistance Agreement related to such an FA award.

6. *Award Notification*: Each Applicant will be informed of the Fund's award decision either through a Notice of Award (NOA) if selected for an award (see NOA section, below) or written declination if not selected for an award. The Fund will notify Awardees by e-mail using the addresses maintained in the Awardee's myCDFIFund account. Each Applicant that is not selected for an award, for reasons other than completeness or eligibility issues, will be provided a written debriefing on the strengths and weaknesses of its Application. This feedback will be provided in a format and within a timeframe to be determined by the Fund based on its available resources.

7. The Fund reserves the right to reject an application if information (including administrative errors) comes to the attention of the Fund that either adversely affects an Applicant's eligibility for an award, adversely affects the Fund's evaluation or scoring of an application, or indicates fraud or mismanagement on the part of an Applicant. If the Fund determines that any portion of the application is incorrect in any material respect, the Fund reserves the right, in its sole discretion, to reject the application. The Fund reserves the right to change its eligibility and evaluation criteria and procedures, if the Fund deems it appropriate; if said changes materially affect the Fund's award decisions, the Fund will provide information regarding the changes through the Fund's website. There is no right to

appeal the Fund's award decisions. The Fund's award decisions are final.

VI. Award Administration Information

A. *Notice of Award (NOA)*: The Fund will signify its conditional selection of an Applicant as an Awardee by delivering a signed NOA to the Applicant through its myCDFIFund account.

The NOA will contain the general terms and conditions underlying the Fund's provision of assistance including, but not limited to, the requirement that the Awardee and the Fund enter into an Assistance Agreement. The Applicant must execute the NOA and return it to the Fund. By executing a NOA, the Awardee agrees, among other things, that, if prior to entering into an Assistance Agreement with the Fund, information (including administrative error) comes to the attention of the Fund that either adversely affects the Awardee's eligibility for an award, adversely affects the Fund's evaluation of the Awardee's application, or indicates fraud or mismanagement on the part of the Awardee, the Fund may, in its discretion and without advance notice to the Awardee, terminate the NOA or take such other actions as it deems appropriate. Moreover, by executing a NOA, the Awardee agrees that, if prior to entering into an Assistance Agreement with the Fund, the Fund determines that the Awardee or an Affiliate of the Awardee is in default of any Assistance Agreement previously entered into with the Fund, the Fund may, in its discretion and without advance notice to the Awardee, either terminate the NOA or take such other actions as it deems appropriate. The Fund reserves the right, in its sole discretion, to rescind its award if the Awardee fails to return the NOA, signed by the authorized representative of the Awardee, along with any other requested documentation, within the deadline set by the Fund. For purposes of this section, the Fund will consider an Affiliate to mean any entity that meets the definition of Affiliate in the Regulations.

1. *Failure to Meet Reporting Requirements*: If an Awardee or an Affiliate of the Awardee is a prior Awardee or allocatee under any Fund program and is not current on the reporting requirements set forth in the previously executed assistance, allocation, or award agreement(s), as of the date of the NOA, the Fund reserves the right, in its sole discretion, to delay entering into an Assistance Agreement until said prior Awardee or allocatee is current on the reporting requirements in

any previously executed assistance, allocation, or award agreement(s). Please note that the Fund only acknowledges the receipt of reports that are complete. As such, incomplete reports or reports that are deficient of required elements will not be recognized as having been received. If said prior Awardee or allocatee is unable to meet this requirement within the timeframe set by the Fund, the Fund reserves the right, in its sole discretion, to terminate and rescind the NOA and the award made under this NOFA.

2. Pending Resolution of Noncompliance: If an Applicant is a prior Awardee or allocatee under any Fund program and if: (i) It has submitted complete and timely reports to the Fund that demonstrate noncompliance with a previous assistance, award, or allocation agreement; and (ii) the Fund has yet to make a final determination as to whether the entity is in default of its previous assistance, award, or allocation agreement, the Fund reserves the right, in its sole discretion, to delay entering into an Assistance Agreement, pending full resolution, in the sole determination of the Fund, of the noncompliance. Further, if an Affiliate of the Awardee is a prior Fund Awardee or allocatee and if such entity (i) has submitted complete and timely reports to the Fund that demonstrate noncompliance with a previous assistance, award, or allocation agreement, and (ii) the Fund has yet to make a final determination as to whether the entity is in default of its previous assistance, award, or allocation agreement, the Fund reserves the right, in its sole discretion, to delay entering into an Assistance Agreement, pending full resolution, in the sole determination of the Fund, of the noncompliance. If the prior Awardee or allocatee in question is unable to satisfactorily resolve the issues of noncompliance, in the sole determination of the Fund, the Fund reserves the right, in its sole discretion, to terminate and rescind the NOA and the award made under this NOFA.

3. Default Status: If, at any time prior to entering into an Assistance Agreement through this NOFA, the Fund has made a final determination that an Awardee that is a prior Awardee or allocatee under any Fund program is in default of a previously executed assistance, allocation, or award agreement(s), the Fund reserves the right, in its sole discretion, to delay entering into an Assistance Agreement, until said prior Awardee or allocatee has submitted a complete and timely report demonstrating full compliance with said agreement within a timeframe

set by the Fund. Further, if at any time prior to entering into an Assistance Agreement through this NOFA, the Fund has made a final determination that an Affiliate of the Awardee is a prior Awardee or allocatee under any Fund program and is in default of a previously executed assistance, allocation, or award agreement(s), the Fund reserves the right, in its sole discretion, to delay entering into an Assistance Agreement, until said prior Awardee or allocatee has submitted a complete and timely report demonstrating full compliance with said agreement within a timeframe set by the Fund. If said prior Awardee or allocatee is unable to meet this requirement and the Fund has not specified in writing that the prior Awardee or allocatee is otherwise eligible to receive an Award under this NOFA, the Fund reserves the right, in its sole discretion, to terminate and rescind the NOA and the award made under this NOFA.

4. Termination in Default: If (i) within the 12-month period prior to entering into an Assistance Agreement through this NOFA, the Fund has made a final determination that an Awardee is a prior Awardee or allocatee under any Fund program whose award or allocation was terminated in default of such prior agreement, and (ii) the final reporting period end date for the applicable terminated agreement falls within the 12-month period prior to the application deadline of this NOFA, the Fund reserves the right, in its sole discretion, to delay entering into or determine not to enter into an Assistance Agreement. Further, if (i) within the 12-month period prior to entering into an Assistance Agreement through this NOFA, the Fund has made a final determination that an Affiliate of the Awardee is a prior Awardee or allocatee under any Fund program whose award or allocation was terminated in default of such prior agreement, and (ii) the final reporting period end date for the applicable terminated agreement falls within the 12-month period prior to the application deadline of this NOFA, the Fund reserves the right, in its sole discretion, to delay entering into or determine not to enter into an Assistance Agreement.

5. Compliance with Federal Anti-Discrimination Laws: If the Awardee has previously received funding through any Fund program, and if at any time prior to entering into an Assistance Agreement through this NOFA, the Fund is made aware of a final determination, made within the last three years, in any proceeding instituted against the Awardee in, by, or before any court, governmental, or

administrative body or agency, declaring that the Awardee has discriminated on the basis of race, color, national origin, disability, age, marital status, receipt of income from public assistance, religion, or sex, the Fund reserves the right, in its sole discretion, to terminate and rescind the Notice of Award and the award made under this NOFA.

B. Assistance Agreement: Each Applicant that is selected to receive an award under this NOFA must enter into an Assistance Agreement with the Fund in order to receive disbursement of award proceeds. The Assistance Agreement will set forth certain required terms and conditions of the award, which will include, but not be limited to: (i) The amount of the award; (ii) the type of award; (iii) the approved uses of the award; (iv) the approved eligible market to which the funded activity must be targeted; (v) performance goals and measures; and (vi) reporting requirements for all Awardees. TA-only Sponsoring Entity, FA-only, and FA/TA Assistance Agreements under this NOFA generally will have three-year performance periods; TA-only Assistance Agreements generally will have two-year performance periods.

The Fund reserves the right, in its sole discretion, to terminate the Notice of Award and rescind an award if the Awardee fails to return the Assistance Agreement, signed by the authorized representative of the Awardee, and/or provide the Fund with any other requested documentation, within the deadlines set by the Fund.

Each FA Awardee must provide the Fund with a certificate of good standing (or equivalent documentation) from its state (or jurisdiction) of incorporation.

C. Reporting: **1. Reporting Requirements:** The Fund will collect information, on at least an annual basis, from each Awardee including, but not limited to, an Annual Report that comprises the following components: (i) Financial Reports (including an OMB A-133 audit, as applicable; however Financial Reports are not required of Sponsoring Entities); (ii) Institution Level Report; (iii) Transaction Level Report (for Awardees receiving FA awards); (iv) Financial Status Report form SF-269/SF-425 (for Awardees receiving TA grants); (v) Uses of Financial Assistance (for Awardees receiving FA awards); (vi) Explanation of Noncompliance (as applicable); and (vii) such other information as the Fund may require. Each Awardee is responsible for the timely and complete submission of the Annual Report, even if all or a portion of the documents

actually is completed by another entity or signatory to the Assistance Agreement. If such other entities or signatories are required to provide Institution Level Reports, Transaction Level Reports, Financial Reports, or other documentation that the Fund may require, the Awardee is responsible for ensuring that the information is submitted timely and complete. The Fund reserves the right to contact such additional entities or signatories to the Assistance Agreement and require that additional information and documentation be provided. The Fund will use such information to monitor each Awardee's compliance with the requirements set forth in the Assistance Agreement and to assess the impact of the NACA Program. The Institution Level Report and the Transaction Level Report must be submitted through the Fund's web-based data collection system, the Community Investment Impact System (CIIS). The Financial Reports may be submitted through CIIS. All other components of the Annual

Report may be submitted electronically, as directed, by the Fund. The Fund reserves the right, in its sole discretion, to modify these reporting requirements if it determines it to be appropriate and necessary; however, such reporting requirements will be modified only after notice to Awardees.

2. *Accounting:* The Fund will require each Awardee that receives FA and TA awards through this NOFA to account for and track the use of said FA and TA awards. This means that for every dollar of FA and TA awards received from the Fund, the Awardee will be required to inform the Fund of its uses. This will require Awardees to establish separate administrative and accounting controls, subject to the applicable OMB Circulars. The Fund will provide guidance to Awardees outlining the format and content of the information to be provided on an annual basis, outlining and describing how the funds were used. Each Awardee that receives an award must provide the Fund with the required complete and accurate

Automated Clearinghouse (ACH) form for its bank account prior to award closing and disbursement.

VII. Agency Contacts

A. The Fund will respond to questions and provide support concerning this NOFA and the funding application between the hours of 9 a.m. and 5 p.m. ET, starting the date of the publication of this NOFA through three days prior to the application deadline. The Fund will not respond to questions or provide support concerning the applications that are received after 5 p.m. ET on said dates, until after the funding application deadline. Applications and other information regarding the Fund and its programs may be obtained from the Fund's Web site at <http://www.cdfifund.gov>. The Fund will post responses on its Web site to questions of general applicability regarding the NACA Program.

B. The Fund's contact information is as follows:

TABLE 5—CONTACT INFORMATION
[Fax number for all offices: 202-622-7754]

Type of question	Telephone number (not toll free)	E-mail addresses
NACA Program	202-622-6355	cdfihelp@cdfi.treas.gov .
CDFI Certification	202-622-6355	cdfihelp@cdfi.treas.gov .
Compliance Monitoring and Evaluation	202-622-6330	cme@cdfi.treas.gov .
Information Technology Support	202-622-2455	IThelp@cdfi.treas.gov .

C. *Information Technology Support:* People who have visual or mobility impairments that prevent them from creating a Target Market map using the Fund's Web site should call (202) 622-2455 for assistance (this is not a toll free number).

D. *Communication with the CDFI Fund:* The Fund will use the myCDFIFund Internet interface to communicate with Applicants and Awardees, using the contact information maintained in their respective myCDFIFund accounts. Therefore, the Applicant and any Subsidiaries, signatories, and Affiliates must maintain accurate contact information (including contact person and authorized representative, e-mail addresses, fax numbers, phone numbers, and office addresses) in its myCDFIFund account(s). For more information about myCDFIFund (which includes information about the Fund's Community Investment Impact System), please see the Help documents posted at <http://www.cdfifund.gov/ciis/accessingciis.pdf>.

VIII. Information Sessions and Outreach

The Fund may conduct webinars or host information sessions for organizations interested in applying to, or learning about, the Fund's programs. For further information, please visit the Fund's Web site at <http://www.cdfifund.gov>.

Authority: 12 U.S.C. 4703, 4704, 4706, 4707, 4717; 12 CFR part 1805.

Dated: August 13, 2009.

Donna J. Gambrell,

Director, Community Development Financial Institutions Fund.

[FR Doc. E9-19955 Filed 8-19-09; 8:45 am]

BILLING CODE 4810-70-P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form XXXX

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 Form XXXX, Tax Return Preparer Complaint.

DATES: Written comments should be received on or before October 19, 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 the form and instructions should be directed to Dawn Bidne, at (202) 622-3933, or at Internal Revenue Service, Room 6129, 1111 Constitution Avenue, NW., Washington, DC 20224,

or through the Internet, at Dawn.E.Bidne@irs.gov.

SUPPLEMENTARY INFORMATION:

Title: Tax Return Preparer Complaint.
OMB Number: 1545-XXXX.
Form Number: Form XXXX.

Abstract: This form was created to comply with TIGTA report 200840015, Complaints Against Return Preparers. This form will be used by taxpayers to report allegations of misconduct by tax return preparers. The form was created specifically for tax return preparer complaints and includes items necessary for the IRS to effectively evaluate the complaint and route to the appropriate function.

Current Actions: This is a new collection.

Type of Review: Approval of new collection.

Affected Public: Individuals or households and businesses and other for-profits.

Estimated Number of Respondents: 1,500.

Estimated Average Time per Respondent: 1 hour.

Estimated Total Annual Burden Hours: 1,500 hours.

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: August 10, 2009.

R. Joseph Durbala,

IRS Reports Clearance Officer.

[FR Doc. E9-19969 Filed 8-19-09; 8:45 am]

BILLING CODE 4830-01-P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 1041-QFT

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 Form 1041-QT, U. S. Income Tax Return for Qualified Funeral Trusts.

DATES: Written comments should be received on or before October 19, 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 the form and instructions should be directed to Allan Hopkins at (202) 622-6665, or at Internal Revenue Service, Room 6129, 1111 Constitution Avenue, NW., Washington, DC 20224 or through the Internet at Allan.M.Hopkins@irs.gov.

SUPPLEMENTARY INFORMATION:

Title: U. S. Income Tax Return for Qualified Funeral Trusts.

OMB Number: 1545-1593.

Form Number: 1041-QFT.

Abstract: Internal Revenue Code section 685 allows the trustee of a qualified funeral trust to elect to report and pay the tax for the trust. Form 1041-QFT is used for this purpose. The IRS uses the information on the form to determine that the trustee filed the proper return and paid the correct tax.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Businesses or other for-profit organizations.

Estimated Number of Respondents: 15,000.

Estimated Time per Respondent: 18 hr., 1 min.

Estimated Total Annual Burden Hours: 270,150.

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: July 20, 2009.

R. Joseph Durbala,

IRS Reports Clearance Officer.

[FR Doc. E9-19936 Filed 8-19-09; 8:45 am]

BILLING CODE 4830-01-P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 1000

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 Form 1000, Ownership Certificate.

DATES: Written comments should be received on or before October 19, 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 the form and instructions 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: Ownership Certificate.
OMB Number: 1545-0054.
Form Number: 1000.

Abstract: Form 1000 is used by citizens, resident individuals, fiduciaries, and partnerships in connection with interest on bonds of a domestic, resident foreign, or nonresident foreign corporation containing a tax-free covenant and issued before January 1, 1934. IRS uses the information to verify that the correct amount of tax was withheld.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations and individuals or households.

Estimated Number of Responses: 1,500.

Estimated Time per Response: 3 hours, 23 minutes.

Estimated Total Annual Burden Hours: 5,040.

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: July 20, 2009.

Allan Hopkins,

IRS Reports Clearance Officer.

[FR Doc. E9-19968 Filed 8-19-09; 8:45 am]

BILLING CODE 4830-01-P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 990-T

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 Form 990-T, Exempt Organization Business Income Tax Return.

DATES: Written comments should be received on or before October 19, 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 the form and instructions should be directed to Dawn Bidne at

Internal Revenue Service, Room 6129, 1111 Constitution Avenue, NW., Washington, DC 20224, or at (202) 622-3933, or through the Internet at Dawn.E.Bidne@irs.gov.

SUPPLEMENTARY INFORMATION:

Title: Exempt Organization Business Income Tax Return.

OMB Number: 1545-0687.

Form Number: Form 990-T.

Abstract: Form 990-T is used to report and compute the unrelated business income tax imposed on exempt organizations by Internal Revenue Code section 511 and the proxy tax imposed by Code section 6033(e). The form provides the IRS with the information necessary to determine that the tax has been properly computed.

Current Actions: This form has been revised for the 2009 tax year with three fewer checkboxes that are no longer applicable. This deletion resulted in a burden decrease of 27,085 hours resulting in a new total burden of 5,244,139 hours.

Type of Review: Revision of a currently approved collection.

Affected Public: Not-for-profit institutions.

Estimated Number of Respondents: 37,103.

Estimated Time per Respondent: 141 hours, 20 minutes.

Estimated Total Annual Burden Hours: 5,244,139.

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: August 11, 2009.

R. Joseph Durbala,

IRS Reports Clearance Officer.

[FR Doc. E9-19939 Filed 8-19-09; 8:45 am]

BILLING CODE 4830-01-P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Revenue Procedure 2003-48

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 Revenue Procedure 2003-48, Update of Checklist Questionnaire Regarding Requests for Spin-Off Rulings.

DATES: Written comments should be received on or before October 19, 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 the revenue procedure should be directed to Dawn Bidne at (202) 622-3933, or at Internal Revenue Service, Room 6129, 1111 Constitution Avenue, NW., Washington, DC 20224, or through the Internet at Dawn.E.Bidne@irs.gov.

SUPPLEMENTARY INFORMATION:

Title: Update of Checklist Questionnaire Regarding Requests for Spin-Off Rulings.

OMB Number: 1545-1846.

Revenue Procedure Number: Revenue Procedure 2003-48.

Abstract: Revenue Procedure 2003-48 updates Revenue Procedure 96-30, which sets forth in a checklist questionnaire the information that must

be included in a request for ruling under section 355. This revenue procedure updates information that taxpayers must provide in order to receive letter rulings under section 355. This information is required to determine whether a taxpayer would qualify for nonrecognition treatment.

Current Actions: There are no changes being made to the revenue procedure at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 180.

Estimated Time per Respondent: 200 hours.

Estimated Total Annual Burden Hours: 36,000.

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: August 12, 2009.

R. Joseph Durbala,

IRS Reports Clearance Officer.

[FR Doc. E9-19941 Filed 8-19-09; 8:45 am]

BILLING CODE 4830-01-P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 8912

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 Form 8912, Clean Renewable Energy Bond Credit and Gulf Bond Credit.

DATES: Written comments should be received on or before October 19, 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 the form and instructions should be directed to Dawn Bidne, (202) 622-3933, at Internal Revenue Service, Room 6129, 1111 Constitution Avenue, NW., Washington, DC 20224, or through the Internet at Dawn.E.Bidne@irs.gov.

SUPPLEMENTARY INFORMATION:

Title: Clean Renewable Energy Bond Credit and Gulf Bond Credit.

OMB Number: 1545-2025.

Form Number: Form 8912.

Abstract: Form 8912, Clean Renewable Energy Bond Credit and Gulf Bond Credit, was developed to carry out the provisions of new Internal Revenue Code sections 54 and 1400N(l). The new form provides a means for the taxpayer to compute the clean renewable energy bond credit and the Gulf bond credit.

Current Actions: Two lines were deleted from this form causing a decrease of 400 burden hours. The new burden total for this collection is 5,555 hours.

Type of Review: Revision of a currently approved collection.

Affected Public: Businesses and other for-profit organizations, Farms.

Estimated Number of Respondents: 500.

Estimated Time per Respondent: 11 hours, 7 minutes.

Estimated Total Annual Burden Hours: 5,555.

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: August 12, 2009.

R. Joseph Durbala,

IRS Reports Clearance Officer.

[FR Doc. E9-19943 Filed 8-19-09; 8:45 am]

BILLING CODE 4830-01-P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 8586

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 Form 8586, Low-Income Housing Credit.

DATES: Written comments should be received on or before October 19, 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 the form and instructions this regulation should be directed to Dawn Bidne at (202) 622-3933, Internal Revenue Service, Room 6129, 1111 Constitution Avenue, NW., Washington, DC 20224, or through the Internet at Dawn.E.Bidne@irs.gov.

SUPPLEMENTARY INFORMATION:

Title: Low-Income Housing Credit.

OMB Number: 1545-0984.

Form Number: 8586.

Abstract: Internal Revenue Code section 42 permits owners of residential rental projects providing low-income housing to claim a tax credit for part of the cost of constructing or rehabilitating such low-income housing. Form 8586 is used by taxpayers to compute the credit and by the IRS to verify that the correct credit has been claimed.

Current Actions: There is no change being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households, and businesses, or other for-profit organizations.

Estimated Number of Respondents: 7,786.

Estimated Time per Respondent: 11 hours, 34 minutes.

Estimated Total Annual Burden Hours: 90,007.

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: August 12, 2009.

R. Joseph Durbala,

IRS Reports Clearance Officer.

[FR Doc. E9-19945 Filed 8-19-09; 8:45 am]

BILLING CODE 4830-01-P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 8872

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 Form 8872, Political Organization Report of Contributions and Expenditures.

DATES: Written comments should be received on or before October 19, 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 the form and instructions should be directed to Dawn Bidne at Internal Revenue Service, Room 6129, 1111 Constitution Avenue, NW., Washington, DC 20224, (202)-622-3933, or through the Internet at Dawn.E.Bidne@irs.gov.

SUPPLEMENTARY INFORMATION:

Title: Political Organization Report of Contributions and Expenditures.

OMB Number: 1545-1696.

Form Number: 8872.

Abstract: Internal Revenue Code section 527(j) requires certain political organizations to report contributions received and expenditures made after July 1, 2000. Every section 527 political organization that accepts a contribution or makes an expenditure for an exempt function during the calendar year must file Form 8872 except for: A political organization that is not required to file Form 8871, or a state or local committee of a political party or political committee of a state or local candidate.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Not-for-profit institutions.

Estimated Number of Respondents: 40,000.

Estimated Time per Response: 10 hours, 47 minutes.

Estimated Total Annual Burden Hours: 431,200.

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: August 5, 2009.

R. Joseph Durbala,

IRS Reports Clearance Officer.

[FR Doc. E9-19966 Filed 8-19-09; 8:45 am]

BILLING CODE 4830-01-P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for PS-79-93 (TD 8633)

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 PS-79-93 (TD 8633), Grantor Trust Reporting Requirements (§ 1.674-4).

DATES: Written comments should be received on or before October 19, 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 the form and instructions should be directed to Allan Hopkins, (202) 622-6665, at Internal Revenue Service, Room 6129, 1111 Constitution Avenue, NW., Washington, DC 20224, or through the Internet at Allan.M.Hopkins@irs.gov.

SUPPLEMENTARY INFORMATION:

Title: Grantor Trust Reporting Requirements.

OMB Number: 1545-1442.

Form Number: PS-79-93.

Abstract: The information required by these regulations is used by the Internal Revenue Service to ensure that items of income, deduction, and credit of a trust as owned by a grantor or another person are properly reported.

Current Actions: There is no change in the paperwork burden previously approved by OMB. This form is being submitted for renewal purposes only.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households, and Businesses and other for-profit organizations.

Estimated Number of Respondents: 1,840,000.

Estimated Time per Respondent: 30 minutes.

Estimated Total Annual Burden Hours: 920,000.

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: July 16, 2009.

R. Joseph Durbala,

IRS Reports Clearance Officer.

[FR Doc. E9-19952 Filed 8-19-09; 8:45 am]

BILLING CODE 4830-01-P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 706-D

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 Form 706-D, United States Additional Estate Tax Return Under Code section 2057.

DATES: Written comments should be received on or before October 19, 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 the form and instructions should be directed to Allan Hopkins, (202) 622-6665, at Internal Revenue Service, Room 6129, 1111 Constitution Avenue, NW., Washington, DC 20224, or through the Internet, at Allan.M.Hopkins@irs.gov.

SUPPLEMENTARY INFORMATION:

Title: United States Additional Estate Tax Return Under Code section 2057.

OMB Number: 1545-1680.

Form Number: 706-D.

Abstract: A qualified heir will use Form 706-D to report and to pay the additional estate tax imposed by Code section 2057. Section 2057 requires an additional tax when certain "taxable events" occur with respect to a qualified family-owned business interest received by a qualified heir. IRS will use the information to determine that the additional estate tax has been properly computed.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households.

Estimated Number of Responses: 180.

Estimated Time per Respondent: 2 hours, 50 minutes.

Estimated Total Annual Burden Hours: 512.

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: August 4, 2009.

R. Joseph Durbala,

IRS Reports Clearance Officer.

[FR Doc. E9-19951 Filed 8-19-09; 8:45 am]

BILLING CODE 4830-01-P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 5316

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 Form 5316, Application for Group or Pooled Trust Ruling.

DATES: Written comments should be received on or before October 19, 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 the form and instructions should be directed to Dawn Bidne, at (202) 622-3933, or at Internal Revenue Service, Room 6129, 1111 Constitution

Avenue, NW., Washington, DC 20224, or through the Internet, at Dawn.E.Bidne@irs.gov.

SUPPLEMENTARY INFORMATION:

Title: Application for Group or Pooled Trust Ruling.

OMB Number: 1545-XXXX.

Form Number: Form 5316.

Abstract: Group/pooled trust sponsors file this form to request a determination letter from the IRS for a determination that the trust is a group trust arrangement as described in Rev. Rul. 81-100, 1981-1 C.B. 326 as modified and clarified by Rev. Rul. 2004-67, 2004-28 I.R.B. 28.

Current Actions: This is a new collection.

Type of Review: Approval of new collection.

Affected Public: State, local, or tribal governments, and not-for-profit organizations.

Estimated Number of Respondents: 200.

Estimated Average Time per Respondent: 19 hours.

Estimated Total Annual Burden Hours: 3,800 hours.

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: August 10, 2009.

R. Joseph Durbala,

IRS Reports Clearance Officer.

[FR Doc. E9-19950 Filed 8-19-09; 8:45 am]

BILLING CODE 4830-01-P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Revenue Procedures 97-36, 97-38, 97-39, 2002-9, 2008-52, and 2009-XX

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 Revenue Procedures 97-36, 97-38, 97-39, and 2002-9, Changes in Methods of Accounting.

DATES: Written comments should be received on or before October 19, 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 the regulations should be directed to Dawn Bidne at Internal Revenue Service, Room 6129, 1111 Constitution Avenue, NW., Washington, DC 20224, or at (202) 622-3933, or through the Internet at Dawn.E.Bidne@irs.gov.

SUPPLEMENTARY INFORMATION:

Title: Changes in Methods of Accounting.

OMB Number: 1545-1551. *Revenue Procedure Number:* Revenue Procedures 97-36, 97-38, 97-39, 2002-9, 2008-52, and 2009-XX.

Abstract: The information collected in the four revenue procedures is required in order for the Commissioner to determine whether the taxpayer properly is requesting to change its method of accounting and the terms and conditions of the change.

Current Actions: Revenue Procedure 2009-XX is being added to this

collection and modifies the collections currently associated with this OMB number. This action resulted in a burden increase of 1215.85 hours and 815 new filers affected by this collection.

Type of Review: Revision of a currently approved collection.

Affected Public: Individuals or households, business or other for-profit organizations, not-for-profit institutions, and farms.

Estimated Number of Respondents: 14,065.

Estimated Time per Respondent: 1 hour, 5 minutes.

Estimated Total Annual Burden Hours: 15,191.85.

The following paragraph applies to all 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.

R. Joseph Durbala,

IRS Reports Clearance Officer.

[FR Doc. E9-19948 Filed 8-19-09; 8:45 am]

BILLING CODE 4830-01-P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Notice 2003-67

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 2003-67, Notice on Information Reporting for Payments in Lieu of Dividends.

DATES: Written comments should be received on or before October 19, 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 the regulations should be directed to Dawn Bidne at Internal Revenue Service, Room 6129, 1111 Constitution Avenue, NW., Washington, DC 20224, or at (202) 622-3933, or through the Internet at Dawn.E.Bidne@irs.gov.

SUPPLEMENTARY INFORMATION:

Title: Notice on Information Reporting for Payments in Lieu of Dividends.

Notice Number: 1545-1858.

Abstract: Notice 2003-67 provides guidance to brokers and individuals regarding provisions in the Jobs and Growth Tax Relief Reconciliation Act of 2003. The notice provides rules for brokers to use in determining loanable shares and rules for allocating transferred shares for purposes of determining payments in lieu of dividend reportable to individuals. These rules require brokers to comply with certain recordkeeping requirements to use the favorable rules for determining loanable shares and for allocating transferred shares that may give rise to payments in lieu of dividends.

Current Actions: There are no changes being made to the notice at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other-for-profit organizations.

Estimated Number of Respondents: 600 hours.

Estimated Average Time per Respondent: 100 hours.

Estimated Total Annual Burden Hours: 60,000.

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: August 10, 2009.

R. Joseph Durbala,

IRS Reports Clearance Officer.

[FR Doc. E9-19947 Filed 8-19-09; 8:45 am]

BILLING CODE 4830-01-P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 1120, Schedule B, Schedule D, Schedule G, Schedule H, Schedule M-3, Schedule N, Schedule O, and Schedule PH

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 Form 1120, U.S. Corp. Income Tax Return and its affiliated schedules.

DATES: Written comments should be received on or before October 19, 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 the form and instructions should be directed to Dawn Bidne at Internal Revenue Service, Room 6129, 1111 Constitution Avenue, NW., Washington, DC 20224, or at (202) 622-3933, or through the Internet at Dawn.E.Bidne@irs.gov.

SUPPLEMENTARY INFORMATION:

Title: Form 1120—U.S. Corp. Income Tax Return, Schedule B—Additional Information for Schedule M-3 Filers, Schedule D—Capital Gains and Losses, Schedule G—Information of Certain Persons Owning the Corporation's Voting Stock, Schedule H—Section 280H Limitations for a Personal Service Corporation (PSC), Schedule M-3—Net Income (Loss) Reconciliation for Corporations with Total Assets of \$10 Million or More, Schedule N—Foreign Operations of U.S. Corporations, Schedule O—Consent Plan and Apportionment Schedule for a Controlled Group, and Schedule PH—U.S. Personal Holding.

OMB Number: 1545-0123.

Form Number: 1120, Schedule B, Schedule D, Schedule G, Schedule H, Schedule M-3, Schedule N, Schedule O, and Schedule PH.

Abstract: Form 1120 is used by corporations to compute their taxable income and tax liability. Schedule D (Form 1120) is used by corporations to report gains and losses from the sale of capital assets. Schedule H (Form 1120) is used by personal service corporations to determine if they have met the minimum distribution requirements of section 280H. Schedule N (1120) is used by corporations that have assets in or business operations in a foreign country or a U.S. possession. Schedule O (Form 1120) will be used by corporations that are members of a controlled group to

show the adoption, amendment, or termination of an apportionment plan. It will also be used to show the apportionment of taxable income, income tax, and other tax benefits for members of the controlled group. Schedule PH (Form 1120) is used by personal holding companies to figure the personal holding company tax under section 541. The IRS uses these forms to determine whether corporations have correctly computed their tax liability.

Current Actions: Schedule G has been added to this collection resulting in a burden increase of 236,250 hours. In addition, various changes have been made to other forms under this approval number which decreased the burden by 16,487,149 hours. The new burden total for this collection is 345,452,006 hours.

Type of Review: Revision of a currently approved collection.

Affected Public: Business, or other for-profit organizations and farms.

Estimated Number of Respondents: 5,775,633.

Estimated Time per Respondent: 61 hours, 22 minutes.

Estimated Total Annual Burden Hours: 354,453,006 hours.

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: August 12, 2009.

R. Joseph Durbala,

IRS Reports Clearance Officer.

[FR Doc. E9-19946 Filed 8-19-09; 8:45 am]

BILLING CODE 4830-01-P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Forms 8871 and 8453-X

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 Form 8871, Political Organization Notice of Section 527 Status; Form 8453-X, Political Organization Declaration for Electronic Filing of Notice of Section 527 Status.

DATES: Written comments should be received on or before October 19, 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 the forms and instructions should be directed to Allan Hopkins, at (202) 622-6665, or at Internal Revenue Service, Room 6129, 1111 Constitution Avenue, NW., Washington, DC 20224, or through the Internet at Allan.M.Hopkins@irs.gov.

SUPPLEMENTARY INFORMATION:

Title: Form 8871, Political Organization Notice of Section 527 Status; Form 8453-X, Political Organization Declaration for Electronic Filing of Notice of Section 527 Status.

OMB Number: 1545-1693.

Form Numbers: 8871 and 8453-X.

Abstract: Public Law 106-230 as amended by Public Law 107-276, amended Internal Revenue Code section 527(i) to require certain political organizations to provide information to the IRS regarding their name and address, their purpose, and the names and addresses of their officers, highly

compensated employees, Board of Directors, and related entities within the meaning of section 168(h)(4)). Forms 8871 and 8453-X are used to report this information to the IRS.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Not-for-profit institutions.

Estimated Number of Respondents: 5,000.

Estimated Time per Respondent: 7 hours, 2 minutes.

Estimated Total Annual Burden Hours: 35,195.

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: August 4, 2009.

R. Joseph Durbala,

IRS Reports Clearance Officer.

[FR Doc. E9-19944 Filed 8-19-09; 8:45 am]

BILLING CODE 4830-01-P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 1045

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 Form 21045, Application for Tentative Refund.

DATES: Written comments should be received on or before October 19, 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 the form and instructions should be directed to Allan Hopkins at Internal Revenue Service, Room 6129, 1111 Constitution Avenue, NW., Washington, DC 20224, or at (202) 622-6665, or through the Internet at Allan.M.Hopkins@irs.gov.

SUPPLEMENTARY INFORMATION:

Title: Application for Tentative Refund.

OMB Number: 1545-0098.

Form Number: 1045.

Abstract: Form 1045 is used by individuals, estates, and trusts to apply for a quick refund of taxes due to carryback of a net operating loss, unused general business credit, or claim of right adjustment under Internal Revenue Code section 1341(b). The information obtained is used to determine the validity of the application.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households, business or other for-profit organizations, and farms.

Estimated Number of Respondents: 65,220.

Estimated Time per Respondent: 29 hours, 26 minutes.

Estimated Total Annual Burden Hours: 515,114.

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: July 13, 2009.

R. Joseph Durbala,

IRS Reports Clearance Office.

[FR Doc. E9-19942 Filed 8-19-09; 8:45 am]

BILLING CODE 4830-01-P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Notice 2006-46

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 2006-25, Announcement of Rules to be Included in Final Regulations under Section 897(d) and (e) of the Internal Revenue Code.

DATES: Written comments should be received on or before October 19, 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 the regulations should be directed to Dawn Bidne at Internal Revenue Service, Room 6129, 1111 Constitution Avenue, NW., Washington, DC 20224, or at (202) 622-3933, or through the Internet at *Dawn.E.Bidne@irs.gov*.

SUPPLEMENTARY INFORMATION:

Title: Announcement of Rules to be Included in Final Regulations under Section 897(d) and (e) of the Internal Revenue Code.

Notice Number: 2006-46

OMB Number: 1545-2017.

Abstract: This notice announces that the IRS and Treasury Department will issue final regulations under section 897(d) and (e) of the Internal Revenue Code that will revise the rules under Temp. Treas. Reg. § 1.897-5T, Notice 89-85, and Temp. Treas. Reg. § 1.897-6T to take into account statutory mergers and consolidations under foreign or possessions law which may now qualify for nonrecognition treatment under section 368(a)(1)(A). The specific collections of information are contained in Temp. Treas. Reg. §§ 1.897-5T(c)(4)(ii)(C) and 1.897-6T(b)(1). These reporting requirements notify the IRS of the transfer and enable it to verify that the transferor qualifies for nonrecognition and that the transferee will be subject to U.S. tax on a subsequent disposition of the U.S. real property interest.

Current Actions: There are no changes being made to the notice at this time.

Type of Review: Extension of currently approved collection.

Affected Public: Business or other-for-profit organizations.

Estimated Number of Respondents: 500.

Estimated Time per Respondent: 1 hour.

Estimated Total Annual Reporting Burden Hours: 500.

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: August 12, 2009.

R. Joseph Durbala,

IRS Reports Clearance Officer.

[FR Doc. E9-19940 Filed 8-19-09; 8:45 am]

BILLING CODE 4830-01-P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 5558

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 Form 5558, Application for Extension of Time To File Certain Employee Plan Returns.

DATES: Written comments should be received on or before October 19, 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 the form and instructions should be directed to Dawn Bidne, (202) 622-3933, at Internal Revenue Service, Room 6129, 1111 Constitution Avenue, NW., Washington, DC 20224, or through the Internet at Dawn.E.Bidne@irs.gov.

SUPPLEMENTARY INFORMATION:

Title: Application for Extension of Time to File Certain Employee Plan Returns.

OMB Number: 1545-0212.

Form Number: 5558.

Abstract: This form is used by employers to request an extension of time to file the employee plan annual information return/report (Form 5500 series) or the employee plan excise tax return (Form 5330). The data supplied on Form 5558 is used to determine if such extension of time is warranted.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations, and not-for-profit institutions.

Estimated Number of Respondents: 335,000.

Estimated Time per Response: 24 minutes.

Estimated Total Annual Burden Hours: 131,555.

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: August 12, 2009.

R. Joseph Durbala,

IRS Reports Clearance Officer.

[FR Doc. E9-19938 Filed 8-19-09; 8:45 am]

BILLING CODE 4830-01-P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form XXXXX (GMC 6-25-09)

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 Form XXXXX (GMC 6-25-09), Authorized Cyber Assistant Host Application.

DATES: Written comments should be received on or before October 19, 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 the form and instructions 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: Authorized Cyber Assistant Host Application.

OMB Number: 1545-XXXX.

Form Number: Form XXXXX (GMC 6-25-09).

Abstract: The form is used by a business to apply to become an Authorized Cyber Assistant Host. Information on this form will be used to assist in determining whether the applicant meets the qualifications to become a Cyber Assistant Host. Cyber Assistant is a software program that assists in the preparation of Form 1023, Application for Recognition of Exemption under Section 501(c)(3).

Current Actions: This is a new collection. There are no changes being made to the form at this time.

Type of Review: Approval of new collection.

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

Estimated Number of Respondents: 100.

Estimated Time per Respondent: 2 hrs.

Estimated Total Annual Burden Hours: 200.

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: August 6, 2009.

R. Joseph Durbala,

IRS Reports Clearance Officer.

[FR Doc. E9-19967 Filed 8-19-09; 8:45 am]

BILLING CODE 4830-01-P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Forms 2210 and 2210-F

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 Form 2210, Underpayment of Estimated Tax by Individuals, Estate, and Trusts, and Form 2210-F, Underpayment of Estimated Tax by Farmers and Fishermen.

DATES: Written comments should be received on or before October 19, 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 the forms and instructions should be directed to Allan Hopkins at Internal Revenue Service, (202) 622-6665, Room 6129, 1111 Constitution Avenue, NW., Washington, DC 20224, or through the Internet at Allan.M.Hopkins@irs.gov.

SUPPLEMENTARY INFORMATION:

Title: Underpayment of Estimated Tax by Individuals, Estate, and Trusts (Form 2210), and Underpayment of Estimated Tax by Farmers and Fishermen (Form 2210-F).

OMB Number: 1545-0140.

Form Number: 2210 and 2210-F.

Abstract: Internal Revenue Code section 6654 imposes a penalty for failure to pay estimated tax. Form 2210 is used by individuals, estates, and trusts and Form 2210-F is used by farmers and fisherman to determine whether they are subject to the penalty and to compute the penalty if it applies.

The Service uses this information to determine whether taxpayers are subject to the penalty, and to verify the penalty amount.

Current Actions: There are a total of 12 lines being added to these forms.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households, business or other for-profit organizations, and farms.

Estimated Number of Respondents: 599,999.

Estimated Time per Respondent: 4 hrs.

Estimated Total Annual Burden Hours: 2,405,663.

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: July 20, 2009.

R. Joseph Durbala,

IRS Reports Clearance Officer.

[FR Doc. E9-19962 Filed 8-19-09; 8:45 am]

BILLING CODE 4830-01-P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 2220

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 Form 2220, Underpayment of Estimated Tax by Corporations.

DATES: Written comments should be received on or before October 19, 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 the form and instructions should be directed to Allan Hopkins, at (202) 622-6665, or at Internal Revenue Service, Room 6129, 1111 Constitution Avenue, NW., Washington, DC 20224, or through the Internet, at Allan.M.Hopkins@irs.gov.

SUPPLEMENTARY INFORMATION:

Title: Underpayment of Estimated Tax by Corporations.

OMB Number: 1545-0142.

Form Number: 2220.

Abstract: Form 2220 is used by corporation to determine whether they are subject to the penalty for underpayment of estimated tax and, if so, the amount of the penalty. The IRS uses Form 2220 to determine if the penalty was correctly computed.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit institutions.

Estimated Number of Respondents: 778,080.

Estimated Time per Respondent: 30 hrs., 22 min.

Estimated Total Annual Burden Hours: 23,633,634.

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: August 12, 2009.

R. Joseph Durbala,

IRS Reports Clearance Officer.

[FR Doc. E9-19986 Filed 8-19-09; 8:45 am]

BILLING CODE 4830-01-P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Members of Senior Executive Service Performance Review Boards

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice.

SUMMARY: The purpose of this notice is to publish the names of those IRS employees who will serve as members on IRS' Fiscal Year 2009 Senior Executive Service (SES) Performance Review Boards.

DATES: This notice is effective September 1, 2009.

FOR FURTHER INFORMATION CONTACT: Nina C. Gresham, 1111 Constitution

Avenue, NW., Room 3516, Washington, DC 20224, (202) 927-7409.

SUPPLEMENTARY INFORMATION: Pursuant to 5 U.S.C. 4314(c)(4), this notice announces the appointment of members to the Internal Revenue Service's SES Performance Review Boards. The names and titles of the executives serving on the boards follow:

Linda E. Stiff, Deputy Commissioner for Services and Enforcement

Mark A. Ernst, Deputy Commissioner for Operations Support

Brady R. Bennett, Director, Compliance (W&I)

Peggy A. Bogadi, Deputy Commissioner for Operations (W&I)

Andrew T. Buckler, Director, Program Integration (MITS)

Lauren Buschor, Deputy Associate CIO, Enterprise Operations (MITS)

Richard E. Byrd, Commissioner, Wage and Investment

Susan W. Carroll, Director, Customer Assistance, Relationships and Education (W&I)

Debra C. Chew, Executive Director, Civil Rights, Diversity and EEO

Robert N. Crawford, Associate CIO, Enterprise Services (MITS)

Michael V. Culpepper, Director, Human Resources (SB/SE)

Jonathan M. Davis, Chief of Staff, Office of the Commissioner

Paul D. DeNard, Deputy Commissioner, Operations (LMSB)

Alison L. Doone, Chief Financial Officer

Vicki S. Duane, Director of Field Operations, North Atlantic (CI)

James P. Falcone, IRS Human Capital Officer

Faris R. Fink, Deputy Commissioner

(SB/SE)

Carl T. Froehlich, Associate CIO, End User and Equipment Services (MITS)

Silvana G. Garza, Associate CIO,

Applications Development (MITS)

Arthur L. Gonzalez, Chief Information Officer

David A. Grant, Chief, Agency-Wide Shared Services

Joseph H. Grant, Deputy Commissioner (TEGE)

Sarah Hall Ingram, Commissioner, Tax Exempt and Government Entities

Karen L. Hawkins, Director, Office of Professional Responsibility

Charles E. Hunter, Director of Field Operations, Mid States (CI)

Kathy P. Jantzen, Deputy Chief Information Officer for Operations (MITS)

Robin DelRey Jenkins, Director, Business Systems Planning (SB/SE)

Michael D. Julianelle, Director, Employee Plans (TEGE)

Gregory E. Kane, Deputy Chief Financial Officer

Frank M. Keith, Jr., Chief, Communications and Liaison

Lois G. Lerner, Director, Exempt Organizations (TEGE)

Eileen C. Mayer, Chief, Criminal Investigation

Gretchen R. McCoy, Associate CIO, Modernization-Program Management Office (MITS)

James M. McGrane, Deputy CIO for Strategy/Modernization (MITS)

Patricia H. McGuire, Acting Director, Research Analysis and Statistics

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This document does not meet the Department of the Treasury's criteria for significant regulations.

Dated: August 12, 2009.

Linda E. Stiff,
Deputy Commissioner for Services and Enforcement, Internal Revenue Service.

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