

Federal immigration laws, law enforcement efforts and/or efforts to preserve national security. Amendment of the records could interfere with ICE's ongoing investigations and law enforcement activities and would impose an impossible administrative burden by requiring investigations to be continuously reinvestigated. In addition, permitting access and amendment to such information could disclose classified and other security-sensitive information that could be detrimental to national or homeland security.

(c) From subsection (e)(1) (Relevancy and Necessity of Information) because in the course of investigations of visa applications, the accuracy of information obtained or introduced occasionally may be unclear or the information may not be strictly relevant or necessary to a specific investigation. In the interests of effective enforcement of Federal immigration laws, it is appropriate to retain all information that may be relevant to the determination whether an individual is eligible for a U.S. visa.

(d) From subsection (e)(2) (Collection of Information from Individuals) because requiring that information be collected from the visa applicant would alert the subject to the fact of an investigation in the form of a visa security review, and to the existence of adverse information about the individual, thereby interfering with the related investigation and law enforcement activities.

(e) From subsection (e)(3) (Notice to Subjects) because providing such detailed information would impede immigration enforcement activities in that it could compromise investigations by: Revealing the existence of an otherwise confidential investigation and thereby provide an opportunity for the visa applicant to conceal adverse information, or take other actions that could thwart investigative efforts; reveal the identity of other individuals with information pertinent to the visa security review thereby providing an opportunity for the applicant to interfere with the collection of adverse or other relevant information from such individuals; or reveal the identity of confidential informants, which would negatively affect the informant's usefulness in any ongoing or future investigations and discourage members of the public from cooperating as confidential informants in any future investigations.

(f) From subsections (e)(4)(G) and (H) (Agency Requirements), and (f) (Agency Rules) because portions of this system are exempt from the individual access

provisions of subsection (d) for the reasons noted above, and therefore DHS is not required to establish requirements, rules, or procedures with respect to such access. Providing notice to individuals with respect to existence of records pertaining to them in the system of records or otherwise setting up procedures pursuant to which individuals may access and view records pertaining to themselves in the system would undermine investigative and immigration enforcement efforts as described above.

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

(h) From subsection (e)(8) because to require individual notice of disclosure of information due to compulsory legal process would pose an impossible administrative burden on DHS and other agencies and could alert the subjects of counterterrorism, law enforcement, or intelligence investigations to the fact of those investigations when not previously known.

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

Dated: September 23, 2009.

**Mary Ellen Callahan,**

*Chief Privacy Officer, Department of Homeland Security.*

[FR Doc. E9-23523 Filed 9-29-09; 8:45 am]

**BILLING CODE 9111-28-P**

## DEPARTMENT OF COMMERCE

### Bureau of Economic Analysis

#### 15 CFR Part 806

[Docket No. 09013008909096-01]

RIN 0691-AA71

#### Direct Investment Surveys: BE-10, 2009 Benchmark Survey of U.S. Direct Investment Abroad

**AGENCY:** Bureau of Economic Analysis, Commerce.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** This proposed rule would amend regulations of the Bureau of Economic Analysis (BEA), Department of Commerce, to set forth the reporting requirements for the 2009 BE-10, Benchmark Survey of U.S. Direct Investment Abroad. The benchmark survey covers the U.S. direct investment abroad universe, and is BEA's most comprehensive survey of such investment in terms of subject matter. Benchmark surveys are conducted every 5 years. The proposed changes for the 2009 benchmark survey include changes in form design and reporting criteria to simplify the forms and improve response rates and changes that would reduce detail collected while considering the current needs of data users and respondent burden. Some of the items that would no longer be collected are those that are now collected on BEA's surveys of international services.

**DATES:** Comments on this proposed rule will receive consideration if submitted in writing on or before 5 p.m. November 30, 2009.

**ADDRESSES:** You may submit comments, identified by RIN 0691-AA71, and referencing the agency name (Bureau of Economic Analysis), by any of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments. For agency, select "Commerce Department—all."

- *E-mail:* [David.Galler@bea.gov](mailto:David.Galler@bea.gov).
- *Fax:* Office of the Chief, Direct Investment Division, (202) 606-5318.
- *Mail:* Office of the Chief, Direct Investment Division, U.S. Department of Commerce, Bureau of Economic Analysis, BE-50, Washington, DC 20230.

- *Hand Delivery/Courier:* Office of the Chief, Direct Investment Division, U.S. Department of Commerce, Bureau of Economic Analysis, BE-50, Shipping and Receiving, Section M100, 1441 L Street, NW., Washington, DC 20005.

Written comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained in the proposed rule should be sent to both BEA through any of the methods above and to the Office of Management and Budget (OMB), O.I.R.A., Paperwork Reduction Project 0608-0049, Attention PRA Desk Officer for BEA, via e-mail at [pbugg@omb.eop.gov](mailto:pbugg@omb.eop.gov), or by FAX at 202-395-7245.

**Public Inspection:** All comments received are a part of the public record and will generally be posted to <http://www.regulations.gov> without change. All personal identifying information (for example, name, address, etc.) voluntarily submitted by the commentator may be publicly accessible. Do not submit confidential business information or otherwise sensitive or protected information. BEA will accept anonymous comments.

**FOR FURTHER INFORMATION CONTACT:** David H. Galler, Chief, Direct Investment Division, BE-50, Bureau of Economic Analysis, U.S. Department of Commerce, Washington, DC 20230; phone (202) 606-9835.

**SUPPLEMENTARY INFORMATION:** This proposed rule would amend 15 CFR 806.16 to set forth the reporting requirements for the BE-10, Benchmark Survey of U.S. Direct Investment Abroad. The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995 (PRA).

The BE-10 survey is a mandatory survey and is conducted every 5 years by BEA under the International Investment and Trade in Services Survey Act, 22 U.S.C. 3101-3108 (the Act). BEA will send the survey to potential respondents in March 2010; responses will be due to be filed with BEA not later than May 28, 2010 for those U.S. Reporters filing fewer than 50, and June 30, 2010 for those U.S. Reporters filing 50 or more, foreign affiliate Forms BE-10B, C, and/or D.

### Description of Changes

The proposed changes to the benchmark survey include: (a) Changes in survey form design and reporting criteria to simplify the survey forms and improve response rates; and (b) modifications, deletions and additions of specific items on the survey forms. To simplify reporting, BEA is proposing to discontinue the use of separate forms for

banks. For 2009, bank and nonbank U.S. Reporters would file Form BE-10A, Report for U.S. Reporter. A U.S. Reporter would report all domestic operations on a fully consolidated basis. The 2004 benchmark survey Form BE-10A BANK would be discontinued. Similarly, Form BE-10B BANK, report for foreign affiliates that are banks, would be discontinued.

As the survey is proposed, all foreign affiliates, regardless of industry, would be filed on one of three foreign affiliate forms—

(a) *Form BE-10B*—Report for majority-owned foreign affiliates with total assets, sales or gross operating revenues, or net income greater than \$80 million, positive or negative; additional items would be filed for affiliates with assets, sales, or net income greater than \$300 million, positive or negative. Form BE-10B would replace the 2004 benchmark survey Forms BE-10B(LF) long form and BE-10B(SF) short form for reporting large majority-owned foreign affiliates;

(b) *Form BE-10C*—Report for majority-owned foreign affiliates with total assets, sales or gross operating revenues, or net income greater than \$25 million, positive or negative, but for which no one of these items is greater than \$80 million, positive or negative, and for minority-owned foreign affiliates with total assets, sales or gross operating revenues, or net income greater than \$25 million, positive or negative. Form BE-10C would replace the 2004 benchmark survey Form BE-10B(SF) short form for reporting small majority-owned foreign affiliates and minority-owned foreign affiliates; or

(c) *Form BE-10D*—Schedule for foreign affiliates with total assets, sales or gross operating revenues, and net income less than or equal to \$25 million, positive or negative. Form BE-10D would replace the 2004 benchmark survey Form BE-10B Mini and the 2004 BE-10A Supplement A schedule for reporting the smallest majority- and minority-owned foreign affiliates.

BEA also proposes to increase the exemption level for reporting of selected items on Form BE-10A from \$150 million to \$300 million.

In addition to the changes in the reporting criteria, BEA proposes combining or deleting some items on the benchmark survey reporting forms. Changes to the forms for foreign affiliates include combining the category for U.S. exports of “capital equipment and other goods charged to fixed asset accounts” with the “other” exports category and no longer including financial derivatives in the debt balances between the U.S. Reporter

and their foreign affiliates. In addition, BEA proposes to no longer collect selected balance sheet items as separate items: Other current receivables; allowance for doubtful accounts; other current assets; equity investments in other foreign affiliates using cost method; other equity investments; other noncurrent assets; current liabilities and long-term debt; and other noncurrent liabilities. BEA also proposes to discontinue collecting liabilities owed to and receivables due from U.S. Reporters according to the books of U.S. Reporters (liabilities owed to and receivables due from U.S. Reporters according to the books of the foreign affiliate will continue to be collected); the breakdown of total employee compensation between wages and salaries and employee benefit plans and the breakdown of the number of employees and employee compensation by occupational classification; the composition of external finances; number of equity shares and price per share; subsidies received; number of employees who are U.S. citizens; and wholesale and retail trade items (*i.e.*, the cost of goods purchased for resale and inventory of goods purchased for resale).

Changes to the 2009 U.S. Reporter benchmark survey form parallel those proposed for the foreign affiliate forms. BEA proposes to no longer collect the following selected balance sheet items as separate items: Other current assets; noncurrent receivables; other noncurrent assets; other current liabilities and long-term debt; and other noncurrent liabilities. BEA also proposes to no longer collect the breakdown of total employee compensation between wages and salaries and employee benefit plans; the breakdown of number of employees and employee compensation by occupational classification; and information about wholesale and retail trade items.

Several items on cross-border services transactions between affiliated parties will no longer be collected on the benchmark survey because they are now collected on BEA's surveys of international services (BE-45, BE-120, BE-125, and BE-185). For foreign affiliates, the items that will no longer be collected are: (a) Receipts from and payments to a U.S. Reporter for royalties, license fees, and other fees for the use of intangible property, charges for use of tangible property (including film and television tape rentals), and allocated expenses and sales of services (total and by type of service); and (b) receipts from and payments to U.S. persons other than a U.S. Reporter for

royalties, license fees, and other fees for the use, sale, or purchase of intangible property. For U.S. Reporters, the items that will no longer be collected are receipts from and payments to foreign persons other than the U.S. Reporter's foreign affiliates for royalties, license fees, and other fees for the use, sale, or purchase of intangible property. This change allows BEA to collect information about services transactions with affiliated foreign persons on the same forms and with the same level of detail as it collects information about these transactions with unaffiliated foreign persons.

BEA proposes to add a question to Form BE-10A so it can continue to identify U.S. Reporters that are banks even if the majority of their revenues are generated by nonbanking activities. In addition, BEA proposes to add a question that would identify U.S. parent companies that use foreign manufacturing services to process or further manufacture goods that they own. The information collected will help BEA to align its statistics with current international statistical standards, which now recommend that these services be separately identified and reported as services rather than reflected indistinguishably in statistics on trade in goods.

### Survey Background

The BEA conducts the BE-10, Benchmark Survey of U.S. Direct Investment Abroad under the International Investment and Trade in Services Survey Act, 22 U.S.C. 3101-3108. Section 3103(b) of the Act provides that "with respect to United States direct investment abroad, the President shall conduct a benchmark survey covering year 1982, a benchmark survey covering year 1989, and benchmark surveys covering every fifth year thereafter." In Section 3 of Executive Order 11961, as amended by Executive Orders 12318 and 12518, the President delegated responsibility for performing functions under the Act concerning direct investment to the Secretary of Commerce, who has redelegated it to BEA. Section 3103(b) also instructs the BEA to:

(1) Identify the location, nature, and magnitude of, and changes in total investment by any parent in each of its affiliates and the financial transactions between any parent and each of its affiliates;

(2) Obtain (A) information on the balance sheet of parents and affiliates and related financial data, (B) income statements, including the gross sales by primary line of business (with as much product line detail as is necessary and

feasible) of parents and affiliates in each country in which they have significant operations, and (C) related information regarding trade, including trade in both goods and services, between a parent and each of its affiliates and between each parent or affiliate and any other person;

(3) Collect employment data showing both the number of United States and foreign employees of each parent and affiliate and the levels of compensation, by country, industry, and skill level;

(4) Obtain information on tax payments by parents and affiliates by country; and

(5) Determine, by industry and country, the total dollar amount of research and development expenditures by each parent and affiliate, payments or other compensation for the transfer of technology between parents and their affiliates, and payments or other compensation received by parents or affiliates from the transfer of technology to other persons.

The benchmark survey covers the U.S. direct investment abroad universe, and is BEA's most comprehensive survey of such investment in terms of subject matter. U.S. direct investment abroad is defined as the ownership or control, directly or indirectly, by one U.S. person of 10 percent or more of the voting securities of an incorporated foreign business enterprise or an equivalent interest in an unincorporated foreign business enterprise, including a branch.

The purpose of the benchmark survey is to obtain universe data on the financial and operating characteristics of, and on positions and transactions between, U.S. parent companies and their foreign affiliates. The data are needed to measure the size and economic significance of U.S. direct investment abroad, measure changes in such investment, and assess its impact on the U.S. and foreign economies. These data are used to derive current universe estimates of direct investment from sample data collected in other BEA surveys in nonbenchmark years. In particular, they would serve as benchmarks for the quarterly direct investment estimates included in the U.S. international transactions and national income and product accounts, and for annual estimates of the U.S. direct investment position abroad and of the operations of U.S. parent companies and their foreign affiliates.

### Executive Order 12866

This proposed rule has been determined to be not significant for purposes of E.O. 12866.

### Executive Order 13132

This proposed rule does not contain policies with Federalism implications sufficient to warrant preparation of a Federalism assessment under E.O. 13132.

### Paperwork Reduction Act

This proposed rule contains a collection-of-information requirement subject to review and approval by OMB under the PRA. The requirement will be submitted to OMB for approval as a reinstatement, with change, of a previously approved collection for which approval has expired under OMB control number 0608-0049.

Notwithstanding any other provisions of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the PRA unless that collection displays a currently valid OMB control number.

The BE-10 survey, as proposed, is expected to result in the filing of reports from approximately 3,800 respondents. The respondent burden for this collection of information will vary from one company to another, but is estimated to average 121 hours per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Thus the total respondent burden for the 2009 survey is estimated at 459,400 hours, compared to 428,750 hours estimated for the previous, 2004 survey. The increase in burden hours is associated with an increase in the respondent universe, and is largely offset by changes in survey form design and reporting criteria and information to be collected.

Comments are requested concerning: (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 burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

Written comments regarding the burden-hour estimates or other aspects of the collection of information requirements contained in the proposed rule should be sent to both BEA and OMB following the instructions given in the **ADDRESSES** section above.

## Regulatory Flexibility Act

The Chief Counsel for Regulation, Department of Commerce, has certified to the Chief Counsel for Advocacy, Small Business Administration, under the provisions of the Regulatory Flexibility Act (RFA), 5 U.S.C. 605(b), that this proposed rulemaking, if adopted, will not have a significant economic impact on a substantial number of small entities. A BE-10 report is required of any U.S. company that had a foreign affiliate—that is, that had direct or indirect ownership or control of at least 10 percent of the voting stock of an incorporated foreign business enterprise, or an equivalent interest in an unincorporated foreign business enterprise, including a branch—at any time during the U.S. company's 2009 fiscal year. U.S. companies that have direct investments abroad tend to be quite large, and few small U.S. businesses are subject to the reporting requirements of this survey. Also, U.S. businesses that meet the SBA small business standards tend to have few foreign affiliates and the foreign affiliates that they do own are small. BEA estimates that approximately 500 of the approximately 3,800 U.S. parent companies that will be required to respond to the BE-10 benchmark survey are small businesses according to the standards established by the SBA. The number of items required to be reported for a foreign affiliate is determined by the size of the affiliate's assets, sales, and net income. In the BE-10 survey, for the smallest foreign affiliates—those with total assets, sales or gross operating revenues, and net income of less than or equal to \$25 million (positive or negative)—only a few selected items would be reported on a schedule-type form, Form BE-10D. To further ease the reporting burden on smaller U.S. companies, U.S. Reporters with total assets, sales or gross operating revenues, and net income less than or equal to \$300 million (positive or negative) are required to report only selected items on the BE-10A form for U.S. Reporters, in addition to forms they may be required to file for their foreign affiliates.

Because few small businesses are impacted by this rule, and because those small businesses that are impacted are subject to only minimal recordkeeping burdens, the Chief Counsel for Regulation certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities.

## List of Subjects in 15 CFR Part 806

Economic statistics, Multinational corporations, Penalties, Reporting and

recordkeeping requirements, U.S. investment abroad.

Dated: August 19, 2009.

**Rosemary D. Marcuss,**  
*Acting Director, Bureau of Economic Analysis.*

For the reasons set forth in the preamble, BEA proposes to revise 15 CFR Part 806 as follows:

### PART 806—DIRECT INVESTMENT SURVEYS

1. The authority citation for 15 CFR Part 806 continues to read as follows:

**Authority:** 5 U.S.C. 301; 22 U.S.C. 3101–3108; E.O. 11961 (3 CFR, 1977 Comp., p. 86), as amended by E.O. 12318 (3 CFR, 1981 Comp., p. 173) and E.O. 12518 (3 CFR, 1985 Comp., p. 348).

2. Section 806.16 is revised to read as follows:

#### § 806.16 Rules and regulations for BE-10, Benchmark Survey of U.S. Direct Investment Abroad—2009.

A BE-10, Benchmark Survey of U.S. Direct Investment Abroad will be conducted covering 2009. All legal authorities, provisions, definitions, and requirements contained in § 806.1 through § 806.13 and § 806.14(a) through (d) are applicable to this survey. Specific additional rules and regulations for the BE-10 survey are given in paragraphs (a) through (d) of this section. More detailed instructions are given on the report forms and instructions.

(a) *Response required.* A response is required from persons subject to the reporting requirements of the BE-10, Benchmark Survey of U.S. Direct Investment Abroad—2009, contained herein, whether or not they are contacted by BEA. Also, a person, or their agent, that is contacted by BEA about reporting in this survey, either by sending them a report form or by written inquiry, must respond in writing pursuant to § 806.4. This may be accomplished by:

(1) Certifying in writing, by the due date of the survey, to the fact that the person had no direct investment within the purview of the reporting requirements of the BE-10 survey;

(2) Completing and returning the “BE-10 Claim for Not Filing” by the due date of the survey; or

(3) Filing the properly completed BE-10 report (comprising Form BE-10A and Form(s) BE-10B, BE-10C, and/or BE-10D) by May 28, 2010, or June 30, 2010, as required.

(b) *Who must report.* (1) A BE-10 report is required of any U.S. person that had a foreign affiliate—that is, that had direct or indirect ownership or

control of at least 10 percent of the voting stock of an incorporated foreign business enterprise, or an equivalent interest in an unincorporated foreign business enterprise, including a branch—at any time during the U.S. person's 2009 fiscal year.

(2) If the U.S. person had no foreign affiliates during its 2009 fiscal year, a “BE-10 Claim for Not Filing” must be filed by the due date of the survey; no other forms in the survey are required. If the U.S. person had any foreign affiliates during its 2009 fiscal year, a BE-10 report is required and the U.S. person is a U.S. Reporter in this survey.

(3) Reports are required even if the foreign business enterprise was established, acquired, seized, liquidated, sold, expropriated, or inactivated during the U.S. person's 2009 fiscal year.

(4) The amount and type of data required to be reported vary according to the size of the U.S. Reporters or foreign affiliates, and, for foreign affiliates, whether they are majority-owned or minority-owned by U.S. direct investors. For purposes of the BE-10 survey, a “majority-owned” foreign affiliate is one in which the combined direct and indirect ownership interest of all U.S. parents of the foreign affiliate exceeds 50 percent; all other affiliates are referred to as “minority-owned” affiliates.

(c) *Forms to be filed.*—(1) Form BE-10A must be completed by a U.S. Reporter. If the U.S. Reporter is a corporation, Form BE-10A is required to cover the fully consolidated U.S. domestic business enterprise.

(i) If for a U.S. Reporter any one of the following three items—total assets, sales or gross operating revenues excluding sales taxes, or net income after provision for U.S. income taxes—was greater than \$300 million (positive or negative) at any time during the Reporter's 2009 fiscal year, the U.S. Reporter must file a complete Form BE-10A. It must also file Form(s) BE-10B, C, and/or D, as appropriate, for its foreign affiliates.

(ii) If for a U.S. Reporter none of the three items listed in paragraph (c)(1)(i) of this section was greater than \$300 million (positive or negative) at any time during the Reporter's 2009 fiscal year, the U.S. Reporter is required to file on Form BE-10A only certain items as designated on the form. It must also file Form(s) BE-10B, C, and/or D for its foreign affiliates.

(2) Form BE-10B must be reported for each majority-owned foreign affiliate, whether held directly or indirectly, for which any of the following three items—total assets, sales or gross

operating revenues excluding sales taxes, or net income after provision for foreign income taxes—was greater than \$80 million (positive or negative) at any time during the affiliate's 2009 fiscal year. Affiliates with assets, sales, or net income greater than \$300 million (positive or negative) would file additional items.

(3) Form BE-10C must be reported:

(i) For each majority-owned foreign affiliate, whether held directly or indirectly, for which any one of the three items listed in paragraph (c)(2) of this section was greater than \$25 million but for which none of these items was greater than \$80 million (positive or negative), at any time during the affiliate's 2009 fiscal year, and

(ii) For each minority-owned foreign affiliate, whether held directly or indirectly, for which any one of the three items listed in (c)(2) of this section was greater than \$25 million (positive or negative), at any time during the affiliate's 2009 fiscal year.

(4) Form BE-10D must be reported for majority- or minority-owned foreign affiliates, whether held directly or indirectly, for which all of the three items listed in paragraph (c)(2) of this section were less than or equal to \$25 million (positive or negative) at any time during the affiliate's 2009 fiscal year. Form BE-10D is a schedule; a U.S. Reporter would submit one or more pages of the form depending on the number of affiliates that are required to be filed on this form.

(d) *Due date.* A fully completed and certified BE-10 report comprising Form BE-10A and Form(s) BE-10B, C, and/or D (as required) is due to be filed with BEA not later than May 28, 2010 for those U.S. Reporters filing fewer than 50, and June 30, 2010 for those U.S. Reporters filing 50 or more, foreign affiliate Forms BE-10B, C, and/or D. If the U.S. person had no foreign affiliates during its 2009 fiscal year, it must file a BE-10 Claim for Not Filing by May 28, 2010.

[FR Doc. E9-23586 Filed 9-29-09; 8:45 am]

BILLING CODE 3510-06-P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 49

[EPA-R09-OAR-2009-0598; FRL-8964-2]

#### Assessment of Anticipated Visibility Improvements at Surrounding Class I Areas and Cost Effectiveness of Best Available Retrofit Technology for Four Corners Power Plant and Navajo Generating Station: Advanced Notice of Proposed Rulemaking

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice of extension of comment period.

**SUMMARY:** EPA is announcing an extension of the public comment period on our Advanced Notice of Proposed Rulemaking (ANPR) regarding our assessment of anticipated visibility improvements at surrounding Class I areas and the cost effectiveness of Best Available Retrofit Technology (BART) for Four Corners Power Plant and Navajo Generating Station (August 28, 2009). Through this notice, EPA extends the close of the ANPR comment period from September 28, 2009 until October 28, 2009.

EPA is extending the comment period as a result of requests from the Hopi Tribe and the Navajo Nation for additional time to comment on the ANPR. EPA is granting the requests from the Hopi Tribe and the Navajo Nation notwithstanding the earlier denials by EPA of several extension requests made by other stakeholders. The basis for those earlier denials is that the ANPR is not a rulemaking action and therefore does not make any decisions or propose any control options as BART. Additionally, the ANPR is limited in scope and focused only on variables that were used to model visibility improvement at the surrounding Class I areas and the cost effectiveness of different control options. Therefore, EPA determined that a 30-day comment period in advance of our actual proposal was adequate, as the ANPR by itself only seeks the submittal of information. However, because the Hopi Tribe and the Navajo Nation are affected tribes located in the area impacted by the Navajo Generating Station and Four Corners Power Plant, EPA is extending the comment period to provide greater opportunity for discussion between EPA and affected Tribes. EPA is also extending the public comment period for all other interested parties.

Although the Hopi Tribe and the Navajo Nation requested a longer

extension period, EPA believes a 30-day extension is sufficient, as there will be ample additional opportunity to provide comments once we propose our BART determinations for the Four Corners Power Plant and Navajo Generating Station in the near future.

**DATES:** The comment period for the Advanced Notice of Proposed Rulemaking published at 74 FR 44313, August 28, 2009 is extended. Comments must be received on or before October 28, 2009.

**ADDRESSES:** Submit comments, identified by docket number EPA-R09-OAR-2009-0598, by one of the following methods:

1. *Federal eRulemaking Portal:* [www.regulations.gov](http://www.regulations.gov). Follow the on-line instructions.

2. *E-mail:* [lee.anita@epa.gov](mailto:lee.anita@epa.gov).

3. *Mail or deliver:* Anita Lee (Air-3), U.S. Environmental Protection Agency Region IX, 75 Hawthorne Street, San Francisco, CA 94105-3901.

*Instructions:* All comments will be included in the public docket without change and may be made available online at [www.regulations.gov](http://www.regulations.gov), including any personal information provided, unless the comment includes Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Information that you consider CBI or otherwise protected should be clearly identified as such and should not be submitted through [www.regulations.gov](http://www.regulations.gov) or e-mail. [www.regulations.gov](http://www.regulations.gov) is an "anonymous access" system, and EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send e-mail directly to EPA, your e-mail address will be automatically captured and included as part of the public comment. 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.

*Docket:* The index to the docket for this ANPR is available electronically at [www.regulations.gov](http://www.regulations.gov) and in hard copy at EPA Region IX, 75 Hawthorne Street, San Francisco, California. While all documents in the docket are listed in the index, some information may be publicly available only at the hard copy location (e.g., copyrighted material), and some may not be publicly available in either location (e.g., CBI). To inspect the hard copy materials, please schedule an appointment during normal business hours with the contact listed in the **FOR FURTHER INFORMATION CONTACT** section.

**FOR FURTHER INFORMATION CONTACT:** Anita Lee, EPA Region IX, (415) 972-3958, [lee.anita@epa.gov](mailto:lee.anita@epa.gov).