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WHO: Sponsored by the Office of the Federal Register.

WHAT: Free public briefings (approximately 3 hours) to present:

1. The regulatory process, with a focus on the Federal Register system and the public's role in the development of regulations.
2. The relationship between the Federal Register and Code of Federal Regulations.
3. The important elements of typical Federal Register documents.
4. An introduction to the finding aids of the FR/CFR system.

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

WHEN: Tuesday, February 24, 2009
9:00 a.m.–12:30 p.m.

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

RESERVATIONS: (202) 741-6008



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To subscribe to the Federal Register Table of Contents LISTSERV electronic mailing list, go to <http://listserv.access.gpo.gov> and select Online mailing list archives, FEDREGTOC-L, Join or leave the list (or change settings); then follow the instructions.

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

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

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA-2008-1267; Directorate Identifier 2008-CE-069-AD; Amendment 39-15815; AD 2009-04-09]

RIN 2120-AA64

Airworthiness Directives; Viking Air Limited Model DHC-6-1, DHC-6-100, DHC-6-200, and DHC-6-300 Airplanes

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

ACTION: Final rule.

SUMMARY: We are superseding an existing airworthiness directive (AD) for the products listed above. This AD results from mandatory continuing airworthiness information (MCAI) issued by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as:

There have been reports of inter-rivet cracking on several wing front spar adapter assemblies (P/N C6WM1027-1) on the horizontal and vertical flanges. It was determined that the cracking was caused by stress corrosion in the short transverse grain initiated by local riveting induced stresses.

We are issuing this AD to require actions to correct the unsafe condition on these products.

DATES: This AD becomes effective March 26, 2009.

As of August 5, 2008 (73 FR 37353, July 1, 2008), the Director of the Federal Register approved the incorporation by reference of Viking DHC-6 Twin Otter Service Bulletins No. V6/540, dated October 1, 2007; No. V6/541, dated October 1, 2007; and No. V6/542, dated October 1, 2007; and R.W. Martin, Inc. Service Bulletin No. 00160/2, Revision

A, dated November 15, 2007, listed in this AD.

ADDRESSES: You may examine the AD docket on the Internet at <http://www.regulations.gov> or in person at the Docket Management Facility, U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Pong Lee, Aerospace Engineer, FAA, New York Aircraft Certification Office, ANE-171, 1600 Stewart Avenue, Suite 410, Westbury, New York 11590; telephone: (516) 228-7324; fax: (516) 794-5531.

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that would apply to the specified products. That NPRM was published in the **Federal Register** on December 3, 2008 (73 FR 73618), and proposed to supersede AD 2008-11-10, Amendment 39-15532 (73 FR 37353, July 1, 2008). That NPRM proposed to correct an unsafe condition for the specified products. The MCAI states that:

There have been reports of inter-rivet cracking on several wing front spar adapter assemblies (P/N C6WM1027-1) on the horizontal and vertical flanges. It was determined that the cracking was caused by stress corrosion in the short transverse grain initiated by local riveting induced stresses. This directive mandates modification and inspection of the wing front spar adapter fitting and replacement of cracked fittings.

Since we issued AD 2008-11-10, Amendment 39-15532 (73 FR 37353, July 1, 2008), we have added to the Applicability section additional wing box part numbers that may incorporate a P/N C6WM1027-1 front spar adapter assembly with 10 or more years of service.

Comments

We gave the public the opportunity to participate in developing this AD. We received no comments on the NPRM or on the determination of the cost to the public.

Conclusion

We reviewed the available data and determined that air safety and the

public interest require adopting the AD as proposed.

Differences Between This AD and the MCAI or Service Information

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

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

Costs of Compliance

We estimate that this AD will affect 157 products of U.S. registry. We also estimate that it will take about 18 work-hours per product to comply with the basic requirements of this AD. The average labor rate is \$80 per work-hour. Based on these figures, we estimate the cost of this AD to the U.S. operators to be \$226,080 or \$1,440 per product.

In addition, we estimate that any necessary follow-on actions would take about 200 work-hours and require parts costing \$3,696, for a cost of \$19,696 per product. We have no way of determining the number of products that may need these actions.

Authority for This Rulemaking

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

We are issuing this rulemaking under the authority described in "Subtitle VII, Part A, Subpart III, Section 44701: General requirements." Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on

products identified in this rulemaking action.

Regulatory Findings

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

For the reasons discussed above, I certify this AD:

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

We prepared a regulatory evaluation of the estimated costs to comply with this AD and placed it in the AD Docket.

Examining the AD Docket

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by removing Amendment 39-15532 (73 FR 37353, July 1, 2008) and adding the following new AD:

2009-04-09 Viking Air Limited:
Amendment 39-15815; Docket No. FAA-2008-1267; Directorate Identifier 2008-CE-069-AD.

Effective Date

(a) This airworthiness directive (AD) becomes effective March 26, 2009.

Affected ADs

(b) This AD supersedes AD 2008-11-10, Amendment 39-15532 (73 FR 37353, July 1, 2008).

Applicability

(c) This AD applies to the following Models DHC-6-1, DHC-6-100, DHC-6-200, and DHC-6-300 airplanes, all serial numbers, that are certificated in any category:

- (1) Group 1: Equipped with wing boxes, part numbers (P/Ns) C6W1002-1, C6W1002-3, WR6-1002-59 or WR6-1002-61 that incorporate a P/N C6WWM1027-1 front spar adapter assembly with 10 or more years of service; and
- (2) Group 2: Equipped with wing boxes, P/Ns C6W1002-5, C6W1002-7, C6W1002-9, C6W1002-11, C6W1002-13, C6W1002-15, C6W1002-17, C6W1002-19, C6W1002-21, C6W1002-23, C6W1002-51, C6W1002-53, C6W1002-55, C6W1002-57 or C6W1002-61 that incorporate a P/N C6WWM1027-1 front spar adapter assembly with 10 or more years of service.

Subject

(d) Air Transport Association of America (ATA) Code 57: Wings.

Reason

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

"There have been reports of inter-rivet cracking on several wing front spar adapter assemblies (P/N C6WWM1027-1) on the horizontal and vertical flanges. It was determined that the cracking was caused by stress corrosion in the short transverse grain initiated by local riveting induced stresses. This directive mandates modification and inspection of the wing front spar adapter fitting and replacement of cracked fittings."

Since we issued AD 2008-11-10, Amendment 39-15532 (73 FR 37353, July 1, 2008), we have added to the Applicability section additional wing box part numbers that may incorporate a P/N C6WWM1027-1 front spar adapter assembly with 10 or more years of service.

Actions and Compliance

(f) Unless already done, do the following actions:

(1) *For Group 1 airplanes*, within the next 180 days after August 5, 2008 (the effective date of AD 2008-11-10), install inspection holes in the left-hand (LH) and right-hand (RH) lower wing skins following Viking DHC-6 Twin Otter Service Bulletin Number V6/541, dated October 1, 2007.

(2) *For Group 2 airplanes*, within the next 180 days after the effective date of this AD, install inspection holes in the LH and RH lower wing skins following Viking DHC-6 Twin Otter Service Bulletin Number V6/541, dated October 1, 2007.

(3) *For Group 1 and Group 2 airplanes*, before further flight after installing the inspection holes required in paragraph (f)(1) or (f)(2) of this AD, initially inspect the LH and RH front spar adapter assemblies for cracks, and repetitively thereafter inspect all affected wing box P/Ns at intervals not to exceed 1,200 hours time-in-service or 12 months, whichever occurs first, until the replacement required in paragraph (f)(4) of this AD is done.

(i) For wing box P/Ns C6W1002-1, C6W1002-3, C6W1002-5, C6W1002-7, C6W1002-9, C6W1002-11, C6W1002-13, C6W1002-15, C6W1002-17, C6W1002-19, C6W1002-21, C6W1002-23, C6W1002-51, C6W1002-53, C6W1002-55, C6W1002-57, C6W1002-59, and C6W1002-61, inspect following Viking DHC-6 Twin Otter Service Bulletin Number V6/540, dated October 1, 2007.

(ii) For wing box P/Ns WR6-1002-59 or WR6-1002-61, inspect following R.W. Martin, Inc. Service Bulletin No. 00160/2, Revision A, dated November 15, 2007.

(4) *For Group 1 and 2 airplanes*, before further flight after doing any inspection required in paragraph (f)(3) of this AD where cracks are found, replace the cracked front spar adapter assembly with a front spar adapter assembly, P/N C6WWM1027-3. Do the replacement following Viking DHC-6 Twin Otter Service Bulletin Number V6/542, dated October 1, 2007. This replacement terminates the repetitive inspections required in paragraph (f)(3) of this AD for the replaced front spar adapter assembly.

(5) As a terminating action for the repetitive inspections required in paragraph (f)(3) of this AD, at any time after the initial inspection required in paragraph (f)(3) of this AD, you may replace P/N C6WWM1027-1 with P/N C6WWM1027-3, except it must be replaced prior to further flight as required by paragraph (f)(4) of this AD.

FAA AD Differences

Note: This AD differs from the MCAI and/or service information as follows:

(1) MCAI Transport Canada AD No. CF-2007-31, dated December 17, 2007, is applicable to airplane models with front spar adapter assembly P/N C6WWM1027-3 that incorporate task C57-10-18 of the DHC-6 Corrosion Prevention and Control Manual (CPCM), PSM 1-6-5.

(2) The applicability of this AD does not include airplane models with front spar adapter assembly P/N C6WWM1027-3 that incorporate task C57-10-18 of the DHC-6 CPCM, PSM 1-6-5, which is required in the Transport Canada AD No. CF-94-12R1, dated April 13, 1999, and AD No. CF-99-11, dated May 28, 1999. We have addressed the Corrosion Prevention and Control Program in AD 2008-13-11 (73 FR 37355, July 1, 2008), which identifies specific areas that must be inspected to ensure the structural integrity of the DHC-6 fleet.

Other FAA AD Provisions

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

(1) Alternative Methods of Compliance (AMOCs): The Manager, New York Aircraft Certification Office, FAA, has the authority to

approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Pong Lee, Aerospace Engineer, FAA, New York Aircraft Certification Office, ANE-171, 1600 Stewart Avenue, Suite 410, Westbury, New York 11590; telephone: (516) 228-7324; fax: (516) 794-5531. Before using any approved AMOC on any airplane to which the AMOC applies, notify your appropriate principal inspector (PI) in the FAA Flight Standards District Office (FSDO), or lacking a PI, your local FSDO.

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

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

Related Information

(h) Refer to MCAI Transport Canada AD No. CF-2007-31, dated December 17, 2007; Viking DHC-6 Twin Otter Service Bulletins No. V6/540, dated October 1, 2007; No. V6/541, dated October 1, 2007; and No. V6/542, dated October 1, 2007; and R.W. Martin, Inc. Service Bulletin No. 00160/2, Revision A, dated November 15, 2007, for related information.

Material Incorporated by Reference

(i) You must use Viking DHC-6 Twin Otter Service Bulletins No. V6/540, dated October 1, 2007; No. V6/541, dated October 1, 2007; and No. V6/542, dated October 1, 2007; and R.W. Martin, Inc. Service Bulletin No. 00160/2, Revision A, dated November 15, 2007, to do the actions required by this AD, unless the AD specifies otherwise.

(1) On August 5, 2008 (73 FR 37353, July 1, 2008), the Director of the Federal Register previously approved the incorporation by reference of Viking DHC-6 Twin Otter Service Bulletins No. V6/540, dated October 1, 2007; No. V6/541, dated October 1, 2007; and No. V6/542, dated October 1, 2007; and R.W. Martin, Inc. Service Bulletin No. 00160/2, Revision A, dated November 15, 2007.

(2) For service information identified in this AD, contact Viking Air Limited, 9574 Hampden Road, Sidney, B.C., Canada V8L 5V5; telephone: (250) 656-7227; fax: (250) 656-0673; Internet: <http://www.vikingair.com>; or R.W. Martin, Inc., 37552 Winchester Road, Hangar 20, Murrieta, California 92563; telephone: (951) 600-0009; fax: (951) 600-1005; Internet: <http://www.rwmi.net>.

(3) You may review copies of the service information incorporated by reference for this AD at the FAA, Central Region, Office of the Regional Counsel, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the Central Region, call (816) 329-3768.

(4) You may also review copies of the service information incorporated by reference for this AD at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call (202) 741-6030, or go to: http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.

Issued in Kansas City, Missouri, on February 6, 2009.

Kim Smith,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. E9-3115 Filed 2-18-09; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA-2007-0169; Directorate Identifier 2007-NE-45-AD; Amendment 39-15819; AD 2009-04-13]

RIN 2120-AA64

Airworthiness Directives; Rolls-Royce Deutschland Ltd & Co KG, BR700-715A1-30, BR700-715B1-30, and BR700-715C1-30 Turbofan Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

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

The application of most recent 3D FEM modeling has resulted in the need to reconsider the disc lives as currently shown in the Time Limits Manual. The current Post Certification Life Statement for the low pressure (LP) compressor (fan) disc assembly revises the Declared Safe Cyclic Life (DSCL) from 33,000 flight cycles to 25,000 flight cycles for both the BR715 LP (fan) disc assembly Part No. (P/N) BRH10048 and BR715 LP compressor (fan) disc assembly P/N BRH19253, when installed in the BR700-715A1-30 engine model and operated against the Hawaiian Flight Mission.

We are issuing this AD to prevent uncontained failure of the LP compressor (fan) disc assembly and damage to the airplane.

DATES: This AD becomes effective March 26, 2009.

ADDRESSES: The Docket Operations office is located at Docket Management

Facility, U.S. Department of Transportation, 1200 New Jersey Avenue, SE., West Building Ground Floor, Room W12-140, Washington, DC 20590-0001.

FOR FURTHER INFORMATION CONTACT: Jason Yang, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803; e-mail: jason.yang@faa.gov; telephone (781) 238-7747; fax (781) 238-7199.

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that would apply to the specified products. That NPRM was published in the **Federal Register** on February 5, 2008 (73 FR 6638). That NPRM proposed to correct an unsafe condition for the specified products. The MCAI states that:

The application of most recent 3D FEM modeling has resulted in the need to reconsider the disc lives as currently shown in the Time Limits Manual. The current Post Certification Life Statement for the low pressure (LP) compressor (fan) disc assembly revises the Declared Safe Cyclic Life (DSCL) from 33,000 flight cycles to 25,000 flight cycles for both the BR715 LP (fan) disc assembly P/N BRH10048 and BR715 LP compressor (fan) disc assembly P/N BRH19253, when installed in the BR700-715A1-30 engine model and operated against the Hawaiian Flight Mission.

This AD requires, within 25 flight cycles after the effective date of the AD:

- Amending the Airworthiness Limitations Section (ALS) of the Time Limits Manual SUBTASK 05-10-01-860-016, by revising the "GIVEN LIFE A1-30 RATING (FLIGHT CYCLES)" for both the LP compressor (fan) disc assembly P/N BRH10048 and LP compressor (fan) disc assembly P/N BRH19253 from 33,000 flight cycles to 25,000 flight cycles; and
- Checking the lifing of both the LP compressor (fan) disc assembly P/N BRH10048 and LP compressor (fan) disc assembly P/N BRH19253 if the relevant compressor (fan) disc assembly is currently installed or was previously installed, in the BR700-715A1-30 engine model and operated under the Hawaiian Flight Mission; and
- Removing the relevant compressor (fan) disc assembly from service before further flight, if the consumed life has exceeded the maximum approved life specified in the ALS.

Comments

We gave the public the opportunity to participate in developing this AD. We considered the comments received.

Request To Change the AD Applicability

Rolls-Royce Deutschland requests that we change the AD applicability from “This AD applies to Rolls-Royce Deutschland Ltd & Co KG (RRD), BR700-715A1-30, BR700-715B1-30, and BR700-715C1-30 turbofan engines, with a low pressure (LP) compressor disc assembly, part number (P/N) BRH10048 or P/N BRH19253, when installed in the BR700-715A1-30 engine model and operated against the Hawaiian Flight Mission” to “This AD applies to Rolls-Royce Deutschland Ltd & Co KG (RRD), BR700-715A1-30, BR700-715B1-30, and BR700-715C1-30 turbofan engines, with a low pressure (LP) compressor disc assembly, P/N BRH10048 or P/N BRH19253”. The commenter states that due to fan module mixing between engine models, the AD is applicable to all relevant fan assemblies that have, are, could, or will operate against the Hawaiian Flight Mission, when installed in the BR710-715A1-30 engine.

We agree, and changed the AD applicability.

Request To Combine the Compliance Requirements

Rolls-Royce Deutschland requests that the AD require the operators check the life of the LP compressor disc assemblies, P/N BRH10048 and P/N BRH19253, using the amended Time Limits Manual (TLM), whether currently installed or previously installed in the BR700-715A1-30 engine, and operated under the Hawaiian Flight mission.

We partially agree. Operators are responsible for following the applicable ALS of the TLM to ensure that all critical rotating parts are replaced within the life limitations specified in the Manual. However, for clarification purposes, we included this action in the AD.

Other AD Changes

We determined the AD must be complied with, within 25 flight cycles after the effective date of the AD, instead of 100 flight cycles after the effective date, as proposed, to expeditiously amend the ALS of the TLM with life reduction of the relevant fan disk assembly.

We also require removing fan disk assemblies from service before the next flight if their consumed life has exceeded the maximum approved life as specified in the ALS of the TLM. All life limited part must be removed from service before reaching its declared life in the ALS.

Conclusion

We reviewed the available data, including the comments received, and determined that air safety and the public interest require adopting the AD with the changes described previously. We determined that these changes will not increase the economic burden on any operator or increase the scope of the AD.

Costs of Compliance

We estimate that this AD will affect about 240 engines installed on aircraft of U.S. registry. This LP compressor (fan) disc assembly removal does not impose any additional labor costs if performed at the time of scheduled engine overhaul. We also estimate that it will take about one work-hour per engine to calculate and re-establish the achieved cyclic life for an LP compressor (fan) disc assembly, and that the average labor rate is \$80 per work-hour. We estimate that the prorate cost of the life reduction per engine will be \$33,000. Total cost of this AD is, therefore, \$7,939,200.

Authority for This Rulemaking

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

We are issuing this rulemaking under the authority described in “Subtitle VII, Part A, Subpart III, Section 44701: General requirements.” Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

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

For the reasons discussed above, I certify this AD:

1. Is not a “significant regulatory action” under Executive Order 12866;

2. Is not a “significant rule” under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and

3. Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

We prepared a regulatory evaluation of the estimated costs to comply with this AD and placed it in the AD docket.

Examining the AD Docket

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by adding the following new AD:

2009-04-13 Rolls-Royce Deutschland Ltd & Co KG (formerly BMW Rolls-Royce GmbH, and BMW Rolls-Royce Aero Engines): Amendment 39-15819. Docket No. FAA-2007-0169; Directorate Identifier 2007-NE-45-AD.

Effective Date

(a) This airworthiness directive (AD) becomes effective March 26, 2009.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Rolls-Royce Deutschland Ltd & Co KG (RRD), BR700-715A1-30, BR700-715B1-30, and BR700-715C1-30 turbofan engines, with a low pressure (LP) compressor (fan) disc assembly, part number (P/N) BRH10048 or P/N BRH19253. These engines are installed on, but not limited to, McDonnell Douglas Corporation model 717-200 airplanes.

Reason

(d) The mandatory continuous airworthiness information (MCAI) states:

The application of most recent 3D FEM modeling has resulted in the need to reconsider the disc lives as currently shown in the Time Limits Manual. The current Post Certification Life Statement for the low pressure (LP) compressor (fan) disc assembly revises the Declared Safe Cyclic Life (DSCL) from 33,000 flight cycles to 25,000 flight cycles for both the BR715 LP (fan) disc assembly P/N BRH10048 and BR715 LP compressor (fan) disc assembly P/N BRH19253, when installed in the BR700–715A1–30 engine model and operated against the Hawaiian Flight Mission.

This condition, if not corrected, could result in uncontained failure of the LP compressor (fan) disc assembly and damage to the airplane.

Actions and Compliance

(e) Within 25 flight cycles after the effective date of this AD, do the following actions, unless already done.

(1) Amend the Airworthiness Limitations Section (ALS) of the Time Limits Manual SUBTASK 05–10–01–860–016, by revising the “GIVEN LIFE A1–30 RATING (FLIGHT CYCLES)” for both the LP compressor (fan) disc assembly P/N BRH10048 and LP compressor (fan) disc assembly P/N BRH19253 from 33,000 flight cycles to 25,000 flight cycles.

(2) Check the lifing of both the LP compressor (fan) disc assembly P/N BRH10048 and LP compressor (fan) disc assembly P/N BRH19253 if the relevant compressor (fan) disc assembly is currently installed or was previously installed, in the BR700–715A1–30 engine model and operated under the Hawaiian Flight Mission.

(3) Remove the relevant compressor (fan) disc assembly from service before further flight, if the consumed life has exceeded the maximum approved life specified in the ALS.

Alternative Methods of Compliance (AMOC)

(f) The Manager, Engine Certification Office, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19.

Related Information

(g) Refer to MCAI European Aviation Safety Agency AD 2007–0116–E, dated May 4, 2007, for related information.

(h) Contact Jason Yang, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803; e-mail: Jason.yang@faa.gov; telephone (781) 238–7747; fax (781) 238–7199, for more information about this AD.

Issued in Burlington, Massachusetts, on February 10, 2009.

Peter A. White,

Assistant Manager, Engine and Propeller Directorate, Aircraft Certification Service. [FR Doc. E9–3355 Filed 2–18–09; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION**Federal Aviation Administration****14 CFR Part 71**

[Docket No. FAA–2008–1102; Airspace Docket No. 08–AGL–8]

Establishment of Class D Airspace; Branson, MO

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action establishes Class D airspace at Branson Airport, Branson, MO. The establishment of an air traffic control tower has made this action necessary for the safety of Instrument Flight Rule (IFR) operations at the airport.

DATES: *Effective Date:* 0901 UTC, May 7, 2009. The Director of the Federal Register approves this incorporation by reference action under 1 CFR part 51, subject to the annual revision of FAA Order 7400.9 and publication of conforming amendments.

FOR FURTHER INFORMATION CONTACT: Scott Enander, Central Service Center, Operations Support Group, Federal Aviation Administration, Southwest Region, 2601 Meacham Blvd., Ft. Worth, TX 76193–0530; telephone (817) 321–7716.

SUPPLEMENTARY INFORMATION:**History**

On November 20, 2008, the FAA published in the **Federal Register** a notice of proposed rulemaking to establish Class D airspace at Branson, MO (73 FR 70287, Docket No. FAA–2008–1102). Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. No comments were received. Class D airspace designations are published in paragraph 5000 of FAA Order 7400.9S signed October 3, 2008, and effective October 31, 2008, which is incorporated by reference in 14 CFR 71.1. The Class D airspace designations listed in this document will be published subsequently in that Order.

The Rule

This action amends Title 14 Code of Federal Regulations (14 CFR) Part 71 by establishing Class D airspace for IFR operations at Branson Airport, Branson, MO, where a new control tower has been installed. The Class D airspace will revert to a Class E surface area during those periods when the control tower is not operating. This area would be

depicted on appropriate aeronautical charts.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this regulation: (1) Is not a “significant regulatory action” under Executive Order 12866; (2) is not a “significant rule” under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

The FAA’s authority to issue rules regarding aviation safety is found in Title 49 of the U.S. Code. Subtitle 1, Section 106, describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency’s authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it establishes controlled airspace at Branson Airport, Branson, MO.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

■ In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, B, C, D, AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

■ 1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E. O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9S, Airspace Designations and Reporting Points, signed October 3, 2008, and effective

October 31, 2008, is amended as follows:

Paragraph 5000 Class D Airspace.

* * * * *

ACE MO D Branson, MO [New]

Branson Airport, MO
(Lat. 36°31'55" N., long. 93°12'02" W.)

That airspace extending upward from the surface to and including 3,800 feet MSL within a 4.1-mile radius of Branson Airport. This Class D airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

Anthony D. Roetzel,

Manager, Operations Support Group, ATO Central Service Center.

[FR Doc. E9-2990 Filed 2-18-09; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA-2009-0001; Airspace
Docket No. 09-ASW-2]

Revocation of Class E Airspace; Altus AFB, OK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action removes the Class E airspace area designated as an extension to a Class D surface area at Altus AFB, OK. This airspace has been incorporated into the Altus AFB Class D airspace area under separate rulemaking actions.

DATES: *Effective Date:* 0901 UTC, February 19, 2009. The Director of the Federal Register approves this incorporation by reference action under 1 CFR Part 51, subject to the annual revision of FAA Order 7400.9 and publication of conforming amendments.

FOR FURTHER INFORMATION CONTACT: Scott Enander, Central Service Center, Operations Support Group, Federal Aviation Administration, Southwest Region, 2601 Meacham Blvd., Ft. Worth, TX 76193-0530; telephone (817) 321-7716.

SUPPLEMENTARY INFORMATION:

History

On August 6, 2008, the FAA published in the **Federal Register** a direct final rule to amend Class D and Class E airspace at Altus AFB, OK (73 FR 45605, Docket No. FAA-2008-0339).

This amendment extended the Class D airspace, removing the need for Class E extensions to the Class D airspace area. This airspace has been incorporated into the Altus AFB, OK, Class D airspace area under a separate rulemaking action, which was published on September 29, 2008 and became effective November 20, 2008 (73 FR 56473).

Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. No comments were received. Class E airspace designations are published in paragraph 6004 of FAA Order 7400.9S signed October 3, 2008, and effective October 31, 2008, which is incorporated by reference in 14 CFR Part 71.1. The Class E airspace designations listed in this document will be published subsequently in that Order.

The Rule

This action amends Title 14 Code of Federal Regulations (14 CFR) Part 71 by revoking Class E airspace at Altus AFB, OK.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this regulation: (1) Is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the U.S. Code. Subtitle 1, Section 106, describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it revokes controlled airspace at Altus AFB, OK.

Since this airspace area has been incorporated into Class D airspace, and

in consideration of the need to avoid confusion on the part of pilots flying in the vicinity of Altus AFB, the FAA finds good cause, pursuant to 5 U.S.C. 553(d), for making this amendment effective in less than 30 days in order to promote the safe and efficient handling of air traffic in the area.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

■ In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, B, C, D, AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

■ 1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959-1963 Comp., p. 389.

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9S, Airspace Designations and Reporting Points, signed October 3, 2008, and effective October 31, 2008, is amended as follows:

Paragraph 6004 Class E Airspace Designated as an Extension to a Class D Surface Area.

* * * * *

ASW K E4 Altus, OK [Removed]

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Issued in Fort Worth, TX, on February 2, 2009.

Anthony D. Roetzel,

Manager, Operations Support Group, ATO Central Service Center.

[FR Doc. E9-2987 Filed 2-18-09; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF HOMELAND SECURITY

Bureau of Customs and Border Protection

19 CFR Part 122

[CBP Dec. 09-04]

Technical Amendment to List of User Fee Airports: Addition of St. Augustine Airport, St. Augustine, FL

AGENCY: Customs and Border Protection, Department of Homeland Security.

ACTION: Final rule; technical amendment.

SUMMARY: This document amends the Customs and Border Protection (CBP) Regulations by revising the list of user fee airports to reflect the recent user fee airport designation for St. Augustine Airport in St. Augustine, Florida. User fee airports are those airports which, while not qualifying for designation as international or landing rights airports, have been approved by the Commissioner of CBP to receive, for a fee, the services of CBP officers for the processing of aircraft entering the United States, and the passengers and cargo of those aircraft.

DATES: *Effective Date:* February 19, 2009.

FOR FURTHER INFORMATION CONTACT: Susan Mitchell, Office of Field Operations, 202-344-1850.

SUPPLEMENTARY INFORMATION:

Background

Title 19, Code of Federal Regulations (CFR), sets forth at Part 122 regulations relating to the entry and clearance of aircraft in international commerce and the transportation of persons and cargo by aircraft in international commerce.

Generally, a civil aircraft arriving from a place outside of the United States is required to land at an airport designated as an international airport. Alternatively, the pilot of a civil aircraft may request permission to land at a specific airport, and, if landing rights are granted, the civil aircraft may land at that landing rights airport.

Section 236 of Public Law 98-573 (the Trade and Tariff Act of 1984), codified at 19 U.S.C. 58b, created an option for civil aircraft desiring to land at an airport other than an international airport or a landing rights airport. A civil aircraft arriving from a place outside of the United States may ask for permission to land at an airport designated by the Secretary of Homeland Security¹ as a user fee airport.

Pursuant to 19 U.S.C. 58b, an airport may be designated as a user fee airport if the Commissioner of CBP as delegated by the Secretary of Homeland Security determines that the volume of business

at the airport is insufficient to justify customs services at the airport and the governor of the state in which the airport is located approves the designation. Generally, the type of airport that would seek designation as a user fee airport would be one at which a company, such as an air courier service, has a specialized interest in regularly landing.

As the volume of business anticipated at this type of airport is insufficient to justify its designation as an international or landing rights airport, the availability of customs services is not paid for out of appropriations from the general treasury of the United States. Instead, customs services are provided on a fully reimbursable basis to be paid for by the user fee airport on behalf of the recipients of the services.

The fees which are to be charged at user fee airports, according to the statute, shall be paid by each person using the customs services at the airport and shall be in the amount equal to the expenses incurred by the Commissioner of CBP in providing customs services which are rendered to such person at such airport, including the salary and expenses of those employed by the Commissioner of CBP to provide the customs services. To implement this provision, generally, the airport seeking the designation as a user fee airport or that airport's authority agrees to pay a flat fee for which the users of the airport are to reimburse the airport/airport authority. The airport/airport authority agrees to set and periodically review the charges to ensure that they are in accord with the airport's expenses.

The Commissioner of CBP designates airports as user fee airports pursuant to 19 U.S.C. 58b. See 19 CFR 122.15. If the Commissioner decides that the conditions for designation as a user fee airport are satisfied, a Memorandum of Agreement (MOA) is executed between the Commissioner of CBP and the local responsible official signing on behalf of the state, city or municipality in which the airport is located. In this manner, user fee airports are designated on a case-by-case basis. Section 19 CFR 122.15 sets forth the grounds for withdrawal of a user fee designation and sets forth the list of designated user fee airports.

Periodically, CBP updates the list of user fee airports at 19 CFR 122.15(b) to reflect those that have been currently designated by the Commissioner. This document updates that list of user fee airports by adding St. Augustine Airport, in St. Augustine, Florida to the list. On August 28, 2008, the Commissioner signed a MOA approving

the designation of user fee status for St. Augustine Airport.

Inapplicability of Public Notice and Delayed Effective Date Requirements

Because this amendment merely updates the list of user fee airports to include an airport already designated by the Commissioner of CBP in accordance with 19 U.S.C. 58b and neither imposes additional burdens on, nor takes away any existing rights or privileges from, the public, pursuant to 5 U.S.C. 553(b)(B), notice and public procedure are unnecessary, and for the same reasons, pursuant to 5 U.S.C. 553(d)(3), a delayed effective date is not required.

The Regulatory Flexibility Act and Executive Order 12866

Because no notice of proposed rulemaking is required, the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) do not apply. This amendment does not meet the criteria for a "significant regulatory action" as specified in Executive Order 12866.

Signing Authority

This document is limited to technical corrections of CBP regulations. Accordingly, it is being signed under the authority of 19 CFR 0.1(b).

List of Subjects in 19 CFR Part 122

Air carriers, Aircraft, Airports, Customs duties and inspection, Freight.

Amendments to Regulations

■ Part 122, Code of Federal Regulations (19 CFR part 122) is amended as set forth below:

PART 122—AIR COMMERCE REGULATIONS

■ 1. The authority citation for Part 122 continues to read as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 58b, 66, 1431, 1433, 1436, 1448, 1459, 1590, 1594, 1623, 1624, 1644, 1644a, 2071 note.

§ 122.15 [Amended]

■ 2. The listing of user fee airports in § 122.15(b) is amended as follows: by adding, in alphabetical order, in the "Location" column "St. Augustine, Florida" and by adding on the same line, in the "Name" column "St. Augustine Airport."

Date: February 13, 2009.

Jayson P. Ahern,

Acting Commissioner, U.S. Customs and Border Protection.

[FR Doc. E9-3540 Filed 2-18-09; 8:45 am]

BILLING CODE 9111-14-P

¹ Sections 403(1) and 411 of the Homeland Security Act of 2002 ("the Act," Pub. L. 107-296) transferred the United States Customs Service and its functions from the Department of the Treasury to the Department of Homeland Security; pursuant to section 1502 of the Act, the President renamed the "Customs Service" as the "Bureau of Customs and Border Protection." Effective on March 31, 2007, DHS changed the name of "Bureau of Customs and Border Protection" to "U.S. Customs and Border Protection (CBP)" (See 72 FR 20131, April 23, 2007).

DEPARTMENT OF HOMELAND SECURITY**Coast Guard****33 CFR Part 155**

[Docket No. USCG-1998-3417]

RIN 1625-AA19 (Formerly RIN 2115-AF60)

Salvage and Marine Firefighting Requirements; Vessel Response Plans for Oil*Correction*

In rule document E8-30604 beginning on page 80618 in the issue of Wednesday, December 31, 2008, make the following correction:

§155.4030 [Corrected]

On page 80651, in § 155.4030(b), in TABLE 155.4030(b)—SALVAGE AND MARINE FIREFIGHTING SERVICES AND RESPONSE TIMEFRAMES, in entry (2), in the fourth column, “*COM041* CONUS:” should read “CONUS:”

[FR Doc. Z8-30604 Filed 2-18-09; 8:45 am]

BILLING CODE 1505-01-D

DEPARTMENT OF VETERANS AFFAIRS**38 CFR Part 4**

RIN 2900-AH43

Schedule for Rating Disabilities; Eye; Correction**AGENCY:** Department of Veterans Affairs.**ACTION:** Correcting amendment.

SUMMARY: This document contains a minor correction to the final regulations that the Department of Veterans Affairs (VA) published at 73 FR 66543 on November 10, 2008. The rulemaking revised the portion of VA's Schedule for Rating Disabilities that addresses disabilities of the eye. One of the revised regulations contains an incorrect reference, and this document corrects that error.

DATES: *Effective Date:* February 19, 2009.

FOR FURTHER INFORMATION CONTACT: Maya Ferrandino, Regulations Staff (211D), Compensation and Pension Service, Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (727) 319-5847. (This is not a toll-free number).

SUPPLEMENTARY INFORMATION: VA published a document in the *Federal Register* on November 10, 2008, at 73

FR 66543, revising the portion of the Rating Schedule regarding disabilities of the eye. One of the revised regulations contains an incorrect reference. In 38 CFR 4.77(a), as revised, we state “In all cases, the results must be recorded on a standard Goldmann chart (see Figure 1), and the Goldmann chart must be included with the examination report.” However, Figure 1 is not the Goldmann chart; rather, Figure 2 contains the chart. Stating “Figure 1” instead of “Figure 2” was an inadvertent mistake. This document corrects that error. We intend no substantive change by this correction, only to revise an incorrect reference.

List of Subjects in 38 CFR Part 4

Disability benefits, Pensions, Veterans.

Approved: February 12, 2009.

William F. Russo,*Director of Regulations Management.*

■ For the reason set out in the preamble, 38 CFR part 4 is corrected as follows:

PART 4—SCHEDULE FOR RATING DISABILITIES

■ 1. The authority citation for part 4 continues to read as follows:

Authority: 38 U.S.C. 1155, unless otherwise noted.

§ 4.77 [Corrected]

■ 2. In § 4.77(a) remove “(see Figure 1)” and add, in its place, “(see Figure 2)”.

[FR Doc. E9-3478 Filed 2-18-09; 8:45 am]

BILLING CODE 8320-01-P

POSTAL REGULATORY COMMISSION**39 CFR Part 3020**

[Docket Nos. MC2009-14 and CP2009-20; Order No. 178]

New International Mail Contract**AGENCY:** Postal Regulatory Commission.**ACTION:** Final rule.

SUMMARY: The Commission is adding a new product identified as International Business Reply Service Contract 1 to the Competitive Product List. This action is consistent with changes in a recent law governing postal operations and a recent Postal Service request. Republication of the lists of market dominant and competitive products is also consistent with new requirements in the law.

DATES: *Effective Date:* February 19, 2009.

FOR FURTHER INFORMATION CONTACT: Stephen L. Sharfman, General Counsel,

202-789-6820 and *stephen.sharfman@prc.gov*.

SUPPLEMENTARY INFORMATION:

Regulatory History, 74 FR 1263 (January 12, 2009).

The Postal Service seeks to add a new product identified as International Business Reply Service Contract 1 to the Competitive Product List. For the reasons discussed below, the Commission approves the Request.

I. Background

On December 24, 2008, the Postal Service filed a formal request pursuant to 39 U.S.C. 3642 and 39 CFR 3020.30 *et seq.* to add International Business Reply Service Contract 1 to the Competitive Product List.¹ The Postal Service asserts that the International Business Reply Service Contract 1 product is a competitive product “not of general applicability” within the meaning of 39 U.S.C. 3632(b)(3). This Request has been assigned Docket No. MC2009-14.

The Postal Service contemporaneously filed a contract related to the proposed new product pursuant to 39 U.S.C. 3632(b)(3) and 39 CFR 3015.5. The contract has been assigned Docket No. CP2009-20.

In support of its Request, the Postal Service initially filed the following materials: (1) A statement of supporting justification for this Request as required by 39 CFR 3020.32;² (2) a redacted Decision of the Governors of the United States Postal Service on the Establishment of Prices and Classifications for International Business Reply Service (IBRS) Contracts (Governors' Decision No. 08-24);³ (3) proposed Mail Classification Schedule language;⁴ (4) a redacted copy of the price floor and price ceiling formulas approved by the Governors;⁵ (5) a redacted copy of the analysis of the proposed price floor and price ceilings discussed in Attachment B;⁶ (6) a

¹ Request of the United States Postal Service to Add International Business Reply Service Contracts to the Competitive Products List, and Notice Filing (Under Seal) Contract and Enabling Governors' Decision, December 24, 2008 (Request). For the reasons discussed in footnote 1 of Commission Order No. 164, the Commission preliminarily renamed the proposed product “International Business Reply Service Contract 1.” See PRC Order No. 164, Notice and Order Concerning International Business Reply Service Contract 1 Negotiated Service Agreement, January 5, 2009, at 1, n.1 (Order No. 164). In this Order, the Commission finalizes the product name as “International Business Reply Service Competitive Contract 1.” See *infra* section IV for a more complete discussion on naming the proposed new product.

² Attachment 1.

³ Attachment 2.

⁴ Attachment 2, Attachment A.

⁵ Attachment 2, Attachment B.

⁶ Attachment 2, Attachment C.

redacted certification as to the formulas for prices offered under applicable International Business Reply Service contracts;⁷ and (7) a redacted certification of compliance with 39 U.S.C. 3633(a) for the IBRS contract at issue in Docket No. CP2009–20.⁸ Unredacted copies of the Governors' Decision, the IBRS contract, the certification, and other supporting documentation regarding compliance with 39 CFR 3015.5 were filed separately with the Commission under seal. In its Request, the Postal Service maintains that the contract and related financial information, including the customer's name and the accompanying analyses that provide prices, terms, conditions, and financial projections, should remain confidential. Request at 2–3.

In the Statement of Supporting Justification, Jo Ann Miller, Director, Global Business Development, asserts that the service to be provided under the contract will cover its attributable costs, make a positive contribution to coverage of institutional costs, and will increase contribution toward the requisite 5.5 percent of the Postal Service's total institutional costs. *Id.*, Attachment 1. Thus, Ms. Miller contends there will be no issue of subsidization of competitive products by market dominant products as a result of this contract. *Id.* W. Ashley Lyons, Manager, Corporate Financial Planning, Finance Department, certifies that the contract and the formulas established by the Governors' Decision comply with 39 U.S.C. 3633(a). *See id.*, Attachment 2 at Attachment D and Attachment 3.

II. Procedural History

In Order No. 164, the Commission gave notice of the two dockets, appointed a public representative, and provided the public with an opportunity to comment.⁹ The order also sought further information from the Postal Service with respect to the following areas: (1) Information relating to the proposed product name in an attempt to avoid confusion with the domestic product Merchandise Return Service (MRS) and the market dominant IBRS product; (2) an explanation as to why a redacted version of the contract proposed in Docket No. CP2009–20 could not be filed; and (3) additional IBRS contracts with contingency arrangements that are currently in effect. *Id.* at 3–6.

On January 12, 2009, the Postal Service filed its response to Order No.

164.¹⁰ As part of its response, the Postal Service filed a redacted version of the Docket No. CP2009–20 contract.¹¹ It also filed the contingency arrangements with this and other IBRS contract customers both in redacted and unredacted form.¹² Additionally, the Postal Service answered the Commission's questions regarding the classification and naming of the new IBRS Contract 1 product.¹³ The Postal Service explained that it believes that several factors weigh in favor of naming this new proposed competitive product International Business Reply Service Contract 1. First, with respect to the differences between domestic MRS and the proposed new product, the Postal Service notes that MRS does not contain a weight restriction while IBRS is limited to those items that qualify as Letter Post under the Universal Postal Union's (UPU) definition of the term. Second, it notes that customers and foreign postal administrations use and understand the term IBRS in connection with lightweight merchandise items, as well as letters and cards. Third, the Postal Service believes that any necessary distinctions have been made clear in its proposed MCS language for IBRS contracts.¹⁴ If, however, the Commission determines that a change of designation is needed to provide further clarity, the Postal Service recommends that such change be limited to the listing on the product list.¹⁵ As an example of a revised product name that could provide more clarity, the Postal Service used the term "International Business Reply Service (AO) Contract 1" to reflect the fact that the UPU uses the abbreviation AO for autres objects or Letter Post items other than letters or cards. *Id.* at 3–4.

On January 16, 2009, a Chairman's Information Request No. 1 and Notice of Filing of Questions Under Seal was

¹⁰ Response of the United States Postal Service to Order No. 164, and Notice of Filing Redacted Contract and Other Requested Materials, January 12, 2009 (Response to Order No. 164).

¹¹ *Id.* at Attachment 1.

¹² *Id.* at Attachments 2–A, 2–B, and 2–C.

¹³ With respect to the Commission concern that MRS may be better classified as a competitive product, the Postal Service stated that it is currently conducting a review of all special services, including MRS, to determine if any products should be transferred to the Competitive Product List.

¹⁴ Specifically, the proposed MCS language limits the proposed new product, IBRS Contract 1, to Letter Post items not subject to the Private Express Statutes. On the other hand, the market dominant IBRS product only covers items subject to the Private Express Statutes.

¹⁵ It asks the Commission not to require an adjustment of inventory or processes on behalf of the Postal Service, its customers, or its foreign postal administration partners.

issued.¹⁶ The Postal Service filed its response (under seal) to these questions on January 23, 2009.¹⁷

III. Comments

Comments were filed by the Public Representative.¹⁸ No filings were submitted by other interested parties. The Public Representative believes the addition of the proposed product to the Competitive Product List and the approval of the proposed contract is in the interest of the general public and is consistent with the statutory requirements of 39 U.S.C. 3632, 3633 and 3642. Public Representative Comments at 2–3. He further states that the agreement appears beneficial to the general public. *Id.* at 4–6. He also believes that, considering the circumstances of the contract, the Postal Service has provided sufficient transparency to the public. *Id.* at 3–4.

IV. Commission Analysis

The Commission has reviewed the Request, the Response to Order No. 164, the Response to CIR No. 1, the contract, the financial analysis provided under seal that accompanies it, and the comments filed by the Public Representative.

Statutory requirements. The Commission's statutory responsibilities in this instance entail assigning IBRS Contract 1 to either the Market Dominant Product List or to the Competitive Product List. 39 U.S.C. 3642. As part of this responsibility, the Commission also reviews the proposal for compliance with the Postal Accountability and Enhancement Act (PAEA) requirements. This includes, for proposed competitive products, a review of the provisions applicable to rates for competitive products. 39 U.S.C. 3633.

Product list assignment. The Postal Service asserts that IBRS Contract 1 should be classified as competitive because the contracts at issue concern items outside the definition of letters, and "the PAEA clearly requires that bulk international mail be classified as competitive." Request at 5.¹⁹ These arguments do not support the proposed classification. First, in determining whether to assign IBRS Contract 1 as a

¹⁶ Chairman's Information Request No. 1 and Notice of Filing of Questions Under Seal, January 16, 2009 (CIR No. 1).

¹⁷ Notice of Filing United States Postal Service Responses to Chairman's Information Request No. 1 (Under Seal), January 23, 2009 (Response to CIR No. 1).

¹⁸ Public Representative Comments in Response to Commission Order No. 164, January 14, 2009 (Public Representative Comments).

¹⁹ It also cites other factors supporting the "bulk" status. *Id.*

⁷ Attachment 2, Attachment D.

⁸ Attachment 3.

⁹ *See generally* Order No. 164.

product to the Market Dominant Product List or the Competitive Product List, the Commission must consider, under section 3642, whether

the Postal Service exercises sufficient market power that it can effectively set the price of such product substantially above costs, raise prices significantly, decrease quality, or decrease output, without risk of losing a significant level of business to other firms offering similar products.

39 U.S.C. 3642(b)(1). If so, the product will be categorized as market dominant. The competitive category of products shall consist of all other products. While the inclusion or exclusion of a product from the postal monopoly may be an important factor for the Commission to weigh in determining whether a product should be classified as market dominant or competitive, it is not determinative.

The Commission is further required to consider the availability and nature of enterprises in the private sector engaged in the delivery of the product, the views of those who use the product, and the likely impact on small business concerns. 39 U.S.C. 3642(b)(3).

Second, the PAEA does not "require" newly proposed "bulk international mail" to be classified as competitive. In title 39, chapter 36, subchapter II, the Commission created the original competitive product list, including identifying several bulk international mail products.²⁰ Section 3631 explicitly states that the competitive product list shall consist of "[certain products] subject to subsection (d)²¹ and any changes the Postal Regulatory Commission may make under section 3642." 39 U.S.C. 3631(a) (emphasis added). Once that initial determination was made in Order No. 43, products may be added to, transferred between, or deleted from the product lists in accordance with section 3642.

The Postal Service asserts that its bargaining position is constrained by the existence of other shippers who can provide similar services, thus precluding it from taking unilateral action to increase prices without the risk of losing volume to competitors. Request, Attachment 1, para. (d). The Postal Service also contends that it may not decrease quality or output without risking the loss of business to competitors that offer similar services. *Id.* It further states that it has no specific

data on the contract partner's views regarding the regulatory classification of these types of contracts. *Id.* at para. (g). Finally, the Postal Service states that the market for these services is highly competitive and only large shipping companies, consolidators, and freight forwarders serve this market. Accordingly, the Postal Service states that it is unaware of any small business concerns that could offer comparable service for these types of customers. *Id.* at para. (h). Additionally, the Postal Service submits that by offering IBRS contracts, it is giving small businesses an additional option for shipping articles internationally. Thus, this results in a net impact on small businesses that is positive. *Id.*

No commenter opposes the proposed classification of International Business Reply Service Contract 1 as competitive.

The proper classification of the new IBRS Contract 1 product is not readily apparent. The Postal Service's supporting justification does not appear to address the specifics of this particular product. Nonetheless, in this case, having considered the statutory requirements and circumstances of this case, the Commission finds that International Business Reply Service Contract 1 is appropriately classified as a competitive product and should be added to the Competitive Product List. In future filings, the Postal Service should provide more detailed, specific information regarding the specific elements of section 3642(b), including the ability of others to participate in that particular market. Postal Service requests that do not include this information may hinder the Commission's review of the filing and delay final disposition.

Cost considerations. The Postal Service's financial analysis is intended to show that International Business Reply Service Contract 1 covers its attributable costs, does not result in subsidization of competitive products by market dominant products, and increases contribution from competitive products. Request at Attachment 3. The contract is predicated on unit costs based on the shipper's particular mail characteristics.

Based on the data submitted, the Commission finds that International Business Reply Service Contract 1 should cover its attributable costs (39 U.S.C. 3633(a)(2)), should not lead to the subsidization of competitive products by market dominant products (39 U.S.C. 3633(a)(1)), and should have a positive effect on competitive products' contribution to institutional costs (39 U.S.C. 3633(a)(3)). Thus, an initial review of the proposed

International Business Reply Service Contract 1 indicates that it comports with the provisions applicable to rates for competitive products.

Product name. In Order No. 164, the Commission expressed a preliminary concern with calling the proposed product "International Business Reply Service Contracts" since it could be confused with the market dominant product of the same name. The Postal Service argues its proposed MCS language for IBRS contracts adequately distinguishes between products. However, this does not solve the potential naming problem whereby the Postal Service may, at a future date, wish to enter into IBRS market dominant contracts.²² To provide for this possibility, the Commission will add the proposed product to the competitive product list as "International Business Reply Service Competitive Contract 1" to distinguish it from any future potential market dominant negotiated service agreement products which might be called "International Business Reply Service Market Dominant Contract 1."

Contingency price and cost increase price change provisions. The proposed Docket No. CP2009–20 contract contains two contract terms that require discussion. The first concerns rate changes due to changes in cost. The contract provides that if the Postal Service's costs increase above a certain threshold, it may modify the price under the contract. Response to Order No. 164, Attachment 1, at page 3 (emphasis added). Second, the contract includes a contingency pricing provision which provides:

Article 16. Contingency Price

In the event that either the Mailer or the USPS terminates this Agreement under the terms of Article 13 before the normal expiration date, or in the event that the Mailer and the USPS do not enter into a customized agreement upon the expiration of this current Agreement, the Mailer shall pay postage for any Qualifying Mail the USPS receives after the agreed upon termination date or expiration date, as appropriate, at a price of [redacted] for a period of six (6) months. This price shall have no bearing on the price the USPS shall charge in the event that the Mailer and the USPS do enter into a customized agreement upon the expiration of this current Agreement. *In the event that the Mailer and the USPS have not entered*

²⁰ Docket No. RM2007–1, Order Establishing Ratemaking Regulations for Market Dominant and Competitive Products, October 29, 2007 (Order No. 43).

²¹ Subsection (d) of 39 U.S.C. 3631 originated in S. 662, 109th Cong. section 203 (2005). It was not present in H.R. 22, the House version of the bill, and was not present in H.R. 6407, the final version of the bill that became the PAEA.

²² For example, if the Postal Service were to enter into its first market dominant IBRS contract tomorrow, under the Postal Service's proposed nomenclature, it would be confusing to call it "International Business Reply Service Contract 1" on the market dominant products list since there would already be a competitive product on the competitive products list of the same name (due to this proceeding).

into a new customized Agreement within six (6) months of the termination or expiration of this current Agreement, the USPS shall charge the Mailer a price to be determined at its sole discretion for those items received after the six (6) month date.

Id. at page 5 (emphasis added). This provision allows the Postal Service to change rates unilaterally in the event that the parties have not executed a new agreement within the 6-month period following the end date of the contract.

Both provisions provide the Postal Service with the flexibility to change rates without the need to enter into a new agreement. That flexibility, however, does not trump the need for the Postal Service to comply with the Commission's rules. If either provision is exercised, the Postal Service must file the changed rates with the Commission under 39 CFR 3015.5. *See also* 39 U.S.C. 3632(b)(3). As provided in 39 CFR part 3015, rate changes not of general applicability are subject to a minimum 15-day notice requirement and, in this instance, could be filed in Docket No. CP2009–20. Unless the changed rates raise new issues, the Commission would not anticipate a need to act further.

As demonstrated by its subsequent filings in this case, the Postal Service has outstanding IBRS contracts that contain similar cost increase and contingency provisions. *See id.* at Attachments 2–A, 2–B, and 2–C. The Commission's conclusion regarding these provisions in this case are applicable to other contracts containing similar provisions.

Other considerations. The Postal Service shall promptly notify the Commission of the scheduled termination date of the agreement. If the agreement terminates earlier than anticipated, the Postal Service shall inform the Commission prior to the new termination date. The Commission will then remove the product from the Mail Classification Schedule at the earliest possible opportunity.

In conclusion, the Commission approves International Business Reply Service Competitive Contract 1 as a new product. The revision to the Competitive Product List is shown below the signature of this order and is applicable upon issuance of this order.

V. Ordering Paragraphs

It is Ordered:

1. International Business Reply Service Competitive Contract 1 (MC2009–14 and CP2009–20) is added to the Competitive Product List as a new product under Negotiated Service Agreements, Inbound International.

2. The Postal Service shall notify the Commission of the scheduled

termination date of the Docket No. CP2009–20 contract, and update the Commission if the termination date changes for such contract as discussed in this order.

3. The Secretary shall arrange for the publication of this Order in the **Federal Register**.

List of Subjects in 39 CFR Part 3020

Administrative practice and procedure; Postal Service.

Issued February 5, 2009.

By the Commission.

Steven W. Williams,
Secretary.

■ For the reasons stated in the preamble, under the authority at 39 U.S.C. 503, the Postal Regulatory Commission amends 39 CFR part 3020 as follows:

PART 3020—PRODUCT LISTS

■ 1. The authority citation for part 3020 continues to read as follows:

Authority: 39 U.S.C. 503; 3622; 3631; 3642; 3682.

■ 2. Revise Appendix A to subpart A of part 3020—Mail Classification to read as follows:

Appendix A to Subpart A of Part 3020—Mail Classification Schedule

Part A—Market Dominant Products

1000 Market Dominant Product List

First-Class Mail

Single-Piece Letters/Postcards

Bulk Letters/Postcards

Flats

Parcels

Outbound Single-Piece First-Class Mail

International

Inbound Single-Piece First-Class Mail

International

Standard Mail (Regular and Nonprofit)

High Density and Saturation Letters

High Density and Saturation Flats/Parcels

Carrier Route

Letters

Flats

Not Flat-Machinables (NFMs)/Parcels

Periodicals

Within County Periodicals

Outside County Periodicals

Package Services

Single-Piece Parcel Post

Inbound Surface Parcel Post (at UPU rates)

Bound Printed Matter Flats

Bound Printed Matter Parcels

Media Mail/Library Mail

Special Services

Ancillary Services

International Ancillary Services

Address List Services

Caller Service

Change-of-Address Credit Card

Authentication

Confirm

International Reply Coupon Service

International Business Reply Mail Service

Money Orders

Post Office Box Service

Negotiated Service Agreements

HSBC North America Holdings Inc.

Negotiated Service Agreement

Bookspan Negotiated Service Agreement

Bank of America Corporation Negotiated

Service Agreement

The Bradford Group Negotiated Service

Agreement

Inbound International

Canada Post—United States Postal Service

Contractual Bilateral Agreement for

Inbound Market Dominant Services

Market Dominant Product Descriptions

First-Class Mail

[Reserved for Class Description]

Single-Piece Letters/Postcards

[Reserved for Product Description]

Bulk Letters/Postcards

[Reserved for Product Description]

Flats

[Reserved for Product Description]

Parcels

[Reserved for Product Description]

Outbound Single-Piece First-Class Mail

International

[Reserved for Product Description]

Inbound Single-Piece First-Class Mail

International

[Reserved for Product Description]

Standard Mail (Regular and Nonprofit)

[Reserved for Class Description]

High Density and Saturation Letters

[Reserved for Product Description]

High Density and Saturation Flats/Parcels

[Reserved for Product Description]

Carrier Route

[Reserved for Product Description]

Letters

[Reserved for Product Description]

Flats

[Reserved for Product Description]

Not Flat-Machinables (NFMs)/Parcels

[Reserved for Product Description]

Periodicals

[Reserved for Class Description]

Within County Periodicals

[Reserved for Product Description]

Outside County Periodicals

[Reserved for Product Description]

Package Services

[Reserved for Class Description]

Single-Piece Parcel Post

[Reserved for Product Description]

Inbound Surface Parcel Post (at UPU rates)

[Reserved for Product Description]

Bound Printed Matter Flats

[Reserved for Product Description]

Bound Printed Matter Parcels

[Reserved for Product Description]

Media Mail/Library Mail

[Reserved for Product Description]

Special Services

[Reserved for Class Description]

Ancillary Services

[Reserved for Product Description]

Address Correction Service

[Reserved for Product Description]

Applications and Mailing Permits

[Reserved for Product Description]

Business Reply Mail

[Reserved for Product Description]

Bulk Parcel Return Service

[Reserved for Product Description]

Certified Mail

[Reserved for Product Description]

Certificate of Mailing [Reserved for Product Description]	Outbound International Expedited Services	[Reserved for Product Description]
Collect on Delivery [Reserved for Product Description]	Inbound International Expedited Services	Inbound International Expedited Services
Delivery Confirmation [Reserved for Product Description]	Inbound International Expedited Services 1 (CP2008-7)	[Reserved for Product Description]
Insurance [Reserved for Product Description]	Inbound International Expedited Services 2 (MC2009-10 and CP2009-12)	Priority
Merchandise Return Service [Reserved for Product Description]	Priority Mail	[Reserved for Product Description]
Parcel Airlift (PAL) [Reserved for Product Description]	Priority Mail	Priority Mail
Registered Mail [Reserved for Product Description]	Outbound Priority Mail International	[Reserved for Product Description]
Return Receipt [Reserved for Product Description]	Inbound Air Parcel Post	Outbound Priority Mail International
Return Receipt for Merchandise [Reserved for Product Description]	Parcel Select	[Reserved for Product Description]
Restricted Delivery [Reserved for Product Description]	Parcel Return Service	Inbound Air Parcel Post
Shipper-Paid Forwarding [Reserved for Product Description]	International	[Reserved for Product Description]
Signature Confirmation [Reserved for Product Description]	International Priority Airlift (IPA)	Parcel Select
Special Handling [Reserved for Product Description]	International Surface Airlift (ISAL)	[Reserved for Group Description]
Stamped Envelopes [Reserved for Product Description]	International Direct Sacks—M-Bags	Parcel Return Service
Stamped Cards [Reserved for Product Description]	Global Customized Shipping Services	[Reserved for Group Description]
Premium Stamped Stationery [Reserved for Product Description]	Inbound Surface Parcel Post (at non-UPU rates)	International
Premium Stamped Cards [Reserved for Product Description]	Canada Post—United States Postal Service	[Reserved for Group Description]
International Ancillary Services [Reserved for Product Description]	Contractual Bilateral Agreement for	International Priority Airlift (IPA)
International Certificate of Mailing [Reserved for Product Description]	Inbound Competitive Services (MC2009- 8 and CP2009-9)	[Reserved for Product Description]
International Registered Mail [Reserved for Product Description]	International Money Transfer Service	International Surface Airlift (ISAL)
International Return Receipt [Reserved for Product Description]	International Ancillary Services	[Reserved for Product Description]
International Restricted Delivery [Reserved for Product Description]	Special Services	International Direct Sacks—M-Bags
Address List Services [Reserved for Product Description]	Premium Forwarding Service	[Reserved for Product Description]
Caller Service [Reserved for Product Description]	Negotiated Service Agreements	Global Customized Shipping Services
Change-of-Address Credit Card Authentication [Reserved for Product Description]	Domestic	[Reserved for Product Description]
Confirm [Reserved for Product Description]	Express Mail Contract 1 (MC2008-5)	International Money Transfer Service
International Reply Coupon Service [Reserved for Product Description]	Express Mail Contract 2 (MC2009-3 and CP2009-4)	[Reserved for Product Description]
International Business Reply Mail Service [Reserved for Product Description]	Express Mail Contract 3 (MC2009-15 and CP2009-21)	Inbound Surface Parcel Post (at non-UPU rates)
Money Orders [Reserved for Product Description]	Express Mail & Priority Mail Contract 1 (MC2009-6 and CP2009-7)	[Reserved for Product Description]
Post Office Box Service [Reserved for Product Description]	Express Mail & Priority Mail Contract 2 (MC2009-12 and CP2009-14)	International Ancillary Services
Negotiated Service Agreements [Reserved for Class Description]	Express Mail & Priority Mail Contract 3 (MC2009-13 and CP2009-17)	[Reserved for Product Description]
HSBC North America Holdings Inc. Negotiated Service Agreement [Reserved for Product Description]	Parcel Return Service Contract 1 (MC2009- 1 and CP2009-2)	International Certificate of Mailing
Bookspan Negotiated Service Agreement [Reserved for Product Description]	Priority Mail Contract 1 (MC2008-8 and CP2008-26)	[Reserved for Product Description]
Bank of America Corporation Negotiated Service Agreement	Priority Mail Contract 2 (MC2009-2 and CP2009-3)	International Registered Mail
The Bradford Group Negotiated Service Agreement	Priority Mail Contract 3 (MC2009-4 and CP2009-5)	[Reserved for Product Description]
Part B—Competitive Products	Priority Mail Contract 4 (MC2009-5 and CP2009-6)	International Return Receipt
Competitive Product List	Outbound International	[Reserved for Product Description]
Express Mail	Global Direct Contracts (MC2009-9, CP2009-10, and CP2009-11)	International Restricted Delivery
Express Mail	Global Expedited Package Services (GEPS) Contracts	[Reserved for Product Description]
	GEPS 1 (CP2008-5, CP2008-11, CP2008- 12, and CP2008-13, CP2008-18, CP2008-19, CP2008-20, CP2008-21, CP2008-22, CP2008-23, and CP2008-24)	International Insurance
	Global Plus Contracts	[Reserved for Product Description]
	Global Plus 1 (CP2008-9 and CP2008-10)	Negotiated Service Agreements
	Global Plus 2 (MC2008-7, CP2008-16 and CP2008-17)	[Reserved for Group Description]
	Inbound International	Domestic
	Inbound Direct Entry Contracts with Foreign Postal Administrations (MC2008-6, CP2008-14 and CP2008-15)	[Reserved for Product Description]
	International Business Reply Service	Outbound International
	Competitive Contract 1 (MC2009-14 and CP2009-20)	[Reserved for Group Description]
	Competitive Product Descriptions	Part C—Glossary of Terms and Conditions [Reserved]
	Express Mail	Part D—Country Price Lists for International Mail [Reserved]
	[Reserved for Group Description]	[FR Doc. E9-2960 Filed 2-18-09; 8:45 am]
	Express Mail	BILLING CODE 7710-FW-P
	[Reserved for Product Description]	
	Outbound International Expedited Services	

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

42 CFR Part 414

[CMS-1561-IFC2]

RIN 0938-AP59

Medicare Program; Changes to the Competitive Acquisition of Certain Durable Medical Equipment, Prosthetics, Orthotics and Supplies (DMEPOS) by Certain Provisions of the Medicare Improvements for Patients and Providers Act of 2008 (MIPPA)

AGENCY: Centers for Medicare & Medicaid Services (CMS), HHS.

ACTION: Delay of effective date.

SUMMARY: In accordance with the memorandum of January 20, 2009, from the Assistant to the President and Chief of Staff, entitled "Regulatory Review Plan," this action temporarily delays for 60 days the effective date of the final rule entitled "Medicare Program; Changes to the Competitive Acquisition of Certain Durable Medical Equipment, Prosthetics, Orthotics and Supplies (DMEPOS) by Certain Provisions of the Medicare Improvements for Patients and Providers Act of 2008 (MIPPA)" published in the January 16, 2009 *Federal Register* (74 FR 2873). The temporary 60-day delay in effective date is necessary to give Department officials the opportunity for further review of the issues of law and policy raised by this rule. In addition, this action solicits additional comments on the delay of the effective date.

DATES: *Effective Date.* The effective date of the rule amending 42 CFR part 414 published in the January 16, 2009 *Federal Register* (74 FR 2873) is delayed 60 days until April 18, 2009.

Comment Period. To be assured consideration, comments must be received at one of the addresses provided below, no later than 5 p.m. on March 23, 2009.

ADDRESSES: In commenting, please refer to file code CMS-1561-IFC2. Because of staff and resource limitations, we cannot accept comments by facsimile (FAX) transmission.

You may submit comments in one of four ways (please choose only one of the ways listed):

1. *Electronically.* You may submit electronic comments on this regulation to <http://www.regulations.gov>. Follow the instructions for "Comment or Submission" and enter the filecode to find the document accepting comments.

2. *By regular mail.* You may mail written comments (one original and two copies) to the following address only: Centers for Medicare & Medicaid Services, Department of Health and Human Services, Attention: CMS-1561-IFC2, P.O. Box 8020, Baltimore, MD 21244-8020.

Please allow sufficient time for mailed comments to be received before the close of the comment period.

3. *By express or overnight mail.* You may send written comments (one original and two copies) to the following address only: Centers for Medicare & Medicaid Services, Department of Health and Human Services, Attention: CMS-1561-IFC2, Mail Stop C4-26-05, 7500 Security Boulevard, Baltimore, MD 21244-8020.

4. *By hand or courier.* If you prefer, you may deliver (by hand or courier) your written comments (one original and two copies) before the close of the comment period to either of the following addresses:

a. Room 445-G, Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, DC 20201.

(Because access to the interior of the HHH Building is not readily available to persons without Federal Government identification, commenters are encouraged to leave their comments in the CMS drop slots located in the main lobby of the building. A stamp-in clock is available for persons wishing to retain a proof of filing by stamping in and retaining an extra copy of the comments being filed.)

b. 7500 Security Boulevard, Baltimore, MD 21244-1850.

If you intend to deliver your comments to the Baltimore address, please call telephone number (410) 786-9994 in advance to schedule your arrival with one of our staff members.

Comments mailed to the addresses indicated as appropriate for hand or courier delivery may be delayed and received after the comment period.

Inspection of Public Comments: All comments received before the close of the comment period are available for viewing by the public, including any personally identifiable or confidential business information that is included in a comment. We post all comments received before the close of the comment period on the following Web site as soon as possible after they have been received: <http://www.regulations.gov>. Follow the search instructions on that Web site to view public comments.

Comments received timely will also be available for public inspection as they are received, generally beginning approximately 3 weeks after publication

of a document, at the headquarters of the Centers for Medicare & Medicaid Services, 7500 Security Boulevard, Baltimore, Maryland 21244, Monday through Friday of each week from 8:30 a.m. to 4 p.m. To schedule an appointment to view public comments, phone 1-800-743-3951.

FOR FURTHER INFORMATION CONTACT: Sabrina Teferi, (410) 786-6884. Barry Brook, (410) 786-5889.

SUPPLEMENTARY INFORMATION:

I. Background

On January 16, 2009, we published an interim final rule with comment period entitled "Medicare Program; Changes to the Competitive Acquisition of Certain Durable Medical Equipment, Prosthetics, Orthotics and Supplies (DMEPOS) by Certain Provisions of the Medicare Improvements for Patients and Providers Act of 2008 (MIPPA)" in the *Federal Register* that implements certain provisions of section 154 of the Medicare Improvements for Patients and Providers Act of 2008 (MIPPA) (Pub. L. 110-275) related to the durable medical equipment, prosthetics, orthotics, and supplies (DMEPOS) Competitive Acquisition Program. Specifically, the January 16, 2009 interim final rule with comment: implements certain MIPPA provisions that delay implementation of Round 1 of the competitive bidding program; requires CMS to conduct a second Round 1 competition (the "Round 1 rebid") in 2009; and mandates certain changes for both the Round 1 rebid and subsequent rounds of the program, including a process for providing feedback to suppliers regarding missing financial documentation and requiring contractors to disclose to CMS information regarding subcontracting relationships.

In addition, in the February 10, 2009 *Federal Register*, we published a notice with comment entitled, "Medicare Program; Changes to the Competitive Acquisition of Certain Durable Medical Equipment, Prosthetics, Orthotics and Supplies (DMEPOS) by Certain Provisions of the Medicare Improvements for Patients and Providers Act of 2008 (MIPPA)", (74 FR 6557). That notice solicited public comments on the contemplated 60-day delay in the effective date of the January 16, 2009 interim final rule with comment.

II. Provisions of This Action

This action delays the effective date of the January 16, 2009 interim final rule with comment period. The effective date of the January 16, 2009 interim final

rule with comment period, which would have been February 17, 2009, is now April 18, 2009. The 60-day delay in the effective date is necessary to give Department officials the opportunity for further review of the issues of law and policy raised by the rule. We are also seeking additional comments on this action to delay the effective date.

III. Response to Comments

In response to the February 10, 2009 notice with comment period, we received approximately 550 public comments in favor of delaying the effective date of the January 16, 2009 interim final rule with comment period. The following discussion includes a summary of the public comments that we received and our response to those comments.

Comment: Virtually all comments were in favor of delaying the effective date of the January 16, 2009 interim final rule with comment period. Commenters offered various reasons for supporting the delay. For example, some commenters believe that CMS should spend additional time evaluating the overall impact and structure of the DMEPOS competitive bidding program, determining improvements that need to be made to the processes used to implement the program, and/or considering additional public comment. In addition, other commenters offered comments on the DMEPOS competitive bidding program that were beyond the scope of the proposed 60-day effective date delay or were on DMEPOS topics unrelated to the DMEPOS competitive bidding program.

Response: We appreciate the commenters' concerns. We have decided to proceed with the delay to allow Department officials the opportunity for further review of the issues of law and policy raised by the rule. We note that the original comment period on the rule remains unchanged; the public has until March 17, 2009 to submit comments on the substantive policy issues discussed in the rule. We will address such comments in future rulemaking. We also thank commenters for sharing concerns about issues that were outside the scope of the notice; as these comments were not pertinent to the delay, we will not address the specific issues in this response.

IV. Waiver of Proposed Rulemaking and Delay in Effective Date

We ordinarily publish a notice of proposed rulemaking in the **Federal Register** to provide a period for public comment before the provisions of a rule such as this take effect, in accordance with section 553(b) of the

Administrative Procedure Act (APA) (5 U.S.C. 553(b)). We also ordinarily provide a 30-day delay in the effective date of the provisions of a rule in accordance with section 553(d) of the APA (5 U.S.C. 553(d)). However, we can waive both the notice and comment procedure and the 30-day delay in the effective date if the Secretary finds, for good cause, that it is impracticable, unnecessary or contrary to the public interest to follow the notice and comment procedure or to comply with the 30-day delay in the effective date, and incorporates a statement of the finding and the reasons in the rule.

This action delays the effective date of the January 16, 2009 interim final rule with comment period. A delay in effective date is necessary to give Department officials the opportunity for further review of the issues of law and policies raised by the rule before the interim final rule with comment period becomes effective. Moreover, we believe it would be contrary to the public interest for the January 16, 2009 interim final rule with comment period to become effective until we are certain that all public comments are reviewed. To do otherwise, could potentially result in uncertainty and confusion as to the finality of the interim final rule with comment period. For the reasons stated above, we find that both notice and comment and the 30-day delay in effective date for this action are unnecessary and contrary to the public interest. Therefore, we find there is good cause to waive notice and comment procedures and the 30-day delay in effective date for this rule.

(Catalog of Federal Domestic Assistance Program No. 93.774, Medicare—Supplementary Medical Insurance Program)

Dated: February 13, 2009.

Charlene Frizzera,

Acting Administrator, Centers for Medicare & Medicaid Services.

Approved: February 13, 2009.

Charles E. Johnson,

Acting Secretary.

[FR Doc. E9-3491 Filed 2-13-09; 4:15 pm]

BILLING CODE 4120-01-P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Chapter I

[MB Docket No. 09-17; FCC 09-9]

Implementation of the DTV Delay Act

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document, the Commission takes the first step to implement the DTV Delay Act by; extending the dates in analog television licenses and digital television construction permits to reflect the statutory change of the nationwide DTV transition date from February 17, 2009 to June 12, 2009; and; delegating authority to the Media Bureau to rule on the filings stations made in connection with their requests for restoration of the partial waiver permitting them to terminate analog service on February 17, 2009.

DATES: Effective February 13, 2009.

FOR FURTHER INFORMATION CONTACT: For additional information, contact Evan Baranoff, *Evan.Baranoff@fcc.gov*, of the Media Bureau, Policy Division, at (202) 418-7142.

SUPPLEMENTARY INFORMATION: This is a summary of document FCC 09-9, adopted and released on February 13, 2009. The full text is available for public inspection and copying during regular business hours in the FCC Reference Center, Federal Communications Commission, 445 12th Street, S.W., CY-A257, Washington, DC 20554. These documents 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.) The complete text may be purchased from the Commission's copy contractor, 445 12th Street, S.W., Room CY-B402, Washington, DC 20554. 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).

Summary of the Report and Order and Sua Sponte Order on Reconsideration

I. Introduction

1. In this Report and Order, the first in response to the Congressional extension of the digital television (DTV) transition period, we extend the analog license terms and adjust the construction permits for the full power television stations subject to the DTV Delay Act that was enacted into law on February 11, 2009. (*See DTV Delay Act, Public Law 111-4, 123 Stat. 112 (2009)*). On February 11, 2009, the DTV Delay Act was signed by the President and enacted into law. The DTV Delay Act was passed by the United States Senate on January 29, 2009 and passed by the United States House of Representatives on February 4, 2009. The Commission

also has issued a number of public notices to facilitate Congress's postponement of the DTV transition deadline. See Public Notice, "FCC Requires Public Interest Conditions for Certain Analog TV Terminations on February 17, 2009," FCC 09-7 (rel. Feb. 11, 2009) (February 11 Public Notice); Public Notice, "FCC Announces Procedures Regarding Termination of Analog Television Service On or After February 17, 2009," FCC 09-6 (rel. Feb. 5, 2009) ("February 5 Public Notice"). In the DTV Delay Act, Congress extended the date for the completion of the nationwide DTV transition from February 17, 2009 to June 12, 2009. As a result, after June 12, 2009, full-power television broadcast stations must transmit only digital signals, and may no longer transmit analog signals except for limited analog "nightlight" service. (The DTV Delay Act (to be codified at 47 U.S.C. 309(j)(14) and 337(e)), amends Section 309(j)(14) of the Communications Act to establish June 12, 2009 as the new nationwide deadline for the end of analog transmissions by full-power stations. 47 U.S.C. 309(j)(14)(A) ("A full-power television broadcast license that authorizes analog television service may not be renewed to authorize such service for a period that extends beyond June 12, 2009."). See also 47 U.S.C. 337(e)(1) ("Any full-power television station licensee that holds a television broadcast license to operate between 698 and 806 megahertz may not operate at that frequency after June 12, 2009."). See the Short-term Analog Flash and Emergency Readiness Act, Public Law 110-459, 122 Stat. 5121 (2008).) Congress extended the transition date in order to permit analog service to continue until consumers have had additional time to prepare. The DTV Delay Act directs the Commission to take any actions "necessary or appropriate to implement the provisions, and carry out the purposes" of the DTV Delay Act, and to do so within 30 days. (In addition, the DTV Delay Act amends the Digital Television and Public Safety Act of 2005 ("DTV Act"), Public Law 109-171, 120 Stat. 4 (2006), to direct the Commission to "take such actions as are necessary (1) to terminate all licenses for full-power television stations in the analog television service, and to require the cessation of broadcasting by full-power stations in the analog television service, by June 13, 2009; and (2) to require by June 13, 2009, * * * all broadcasting by full-power stations in the digital television service, occur only on channels between channels 2 and 36,

inclusive, or 38 and 51, inclusive (between frequencies 54 and 698 megahertz, inclusive).") 47 U.S.C.A. 309 Note.) This Report and Order also delegates authority to the Media Bureau to rule on stations' filings regarding termination of analog service on February 17, 2009. We intend to follow up quickly with additional rulemakings as needed. Finally, we adopt a *Sua Sponte Order on Reconsideration* to make a minor adjustment to the public notice released on February 5, 2009, and to the conditions adopted in the public notice released on February 11, 2009.

II. Discussion

2. Initially, we conclude that the actions herein are not subject to the rule making requirements of the Administrative Procedure Act or any other provision of law that otherwise might apply but would impede implementation of the DTV Delay Act. The Act directs the Commission to postpone the DTV transition date from February 17 to June 12, 2009, and provides that, "[n]otwithstanding any other provision of law," the FCC must "adopt or revise its rules, regulations, or orders or take such other actions as may be necessary or appropriate to implement the provisions, and carry out the purposes, of this Act and the amendments made by this Act" within 30 days of the date of its enactment. The "notwithstanding" clause plainly excuses compliance with otherwise applicable legal requirements that would impede implementation of the DTV Delay Act by the statutory deadline. (In other contexts, the DC Circuit has interpreted similar "notwithstanding" language "to supersede all other laws, stating that 'a clearer statement is difficult to imagine.'" *Liberty Maritime Corp. v. United States*, 928 F.2d 413, 416 (DC Cir. 1991) (internal cites omitted).) Even if the clause were ambiguous, we would interpret it to exempt the Commission from APA and other requirements that cannot be reconciled with the statutory deadline. (See, e.g., *Verizon Comm'ns, Inc. v. FCC*, 535 U.S. 467, 539 (2002) (under Chevron doctrine, courts generally defer to an agency's reasonable interpretation of an ambiguous provision in its enabling statute). Cf. *Asiana Airlines v. FAA*, 134 F.3d 393, 398 (DC Cir. 1998) ("when Congress sets forth specific procedures that 'express its clear intent that APA notice and comment procedures need not be followed, an agency may lawfully depart from the normally obligatory procedures of the APA'), quoting *Methodist Hospital of Sacramento v. Shalala*, 38 F.3d 1225, 1235 (1994). The

DC Circuit upheld agency findings that the APA did not apply in the absence of express exemptions in *Asiana* and *Methodist*, despite an APA provision that modifications must be express, because the statutes specified procedures that could not be harmonized with the APA.) The actions herein are necessary and appropriate to implement the DTV Delay Act and carry out its purposes, and must be accomplished before February 17, 2009, so that the effective deadline for our actions here is less than three business days. Because compliance with the APA and other requirements would frustrate our ability to meet that deadline, we conclude that our actions herein are exempt from such requirements. Moreover, we find that there is good cause for departure from the APA requirements of notice and comment and a 30-day delay before rules become effective. (See 5 U.S.C. 553(b)(3)(B) (notice and comment not required "when the agency for good cause finds * * * that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest."), 553(d)(1) (exception to 30-day waiting period for a rule's effectiveness where agency finds good cause and publishes finding with the rule). See also 5 U.S.C. 608 (agency "may waive or delay the completion of some or all of the [initial regulatory flexibility analysis] requirements * * * by publishing in the **Federal Register**, not later than the date of publication of the final rule, a written finding * * * that the final rule is being promulgated in response to an emergency that makes compliance or timely compliance * * * impracticable.")) Again, with regard to the actions here, the effective deadline for Commission action is less than three business days. (The DC Circuit has held that "the extremely limited time given by Congress" to an agency for adoption of regulations "is a crucial factor in establishing 'good cause'" under the APA. *Id.* at 1200-01 (upholding agency finding of good cause to adopt interim rule without notice and comment where statute directed agency to promulgate implementing regulations "[n]ot later than 60 days after the date of enactment").) Our actions are of an interim nature, in that they will no longer be in force after June 13, 2009, and are largely ministerial, because they simply extend deadlines tied to the original DTV transition date of February 17, 2009 to the new statutory date. (See *American Federation of Gov't Employees v. Block*, 655 F.2d 1153, 1156 (good cause existed to issue new rates effective immediately without

notice and comment but not to make them permanent); *see also Metzbaum v. FERC*, 675 F.2d 1282, 1291 (DC Cir. 1982) (agency orders that were nondiscretionary ministerial actions issued in conformity with statute were properly issued without notice and comment). Accordingly, even if our actions are subject to the APA, we find that there is good cause for departure from APA requirements.

A. Licenses and Construction Permits Extended Until New Transition Date

3. By this Order, and pursuant to the authority set forth in the DTV Delay Act, we hereby revise and extend the following dates related to full-power broadcast television stations' licenses and construction permits: (1) the date of termination for a station's analog license is extended from February 17, 2009 to June 12, 2009 (11:59:59 pm local time); (We note that a number of stations are operating with reduced analog facilities pursuant to special temporary authority, based upon a showing that the service reduction was directly related to the construction and operation of their post-transition facilities. We also extend the date of termination for these STAs from February 17, 2009 to June 12, 2009 (11:59:59 pm local time). Similarly, we extend the date of termination for stations operating pre-transition digital facilities pursuant to STAs which currently terminate on February 17th to June 12, 2009 (11:59:59 pm local time).); (2) the construction permit deadline to construct a station's full-authorized post-transition (DTV) facility is extended from February 17, 2009 to June 12, 2009 (11:59:59 pm local time); (We note that the *Third DTV Periodic Report and Order* established certain construction deadlines, rules and procedures for requesting and obtaining extensions for build-out of digital facilities. *See Third Periodic Review of the Commission's Rules and Policies Affecting the Conversion to Digital Television*, MB Docket No. 07-91, Report and Order, 72 FR 37310, 37322-37331 (July 9, 2007) ("*Third DTV Periodic Report and Order*"). We will address these deadlines, rules, and procedures if and as necessary in subsequent proceedings.); and (3) the date on which a station can commence operation of a facility authorized for post transition service without further Commission authorization is extended from 12:00 am February 18, 2009 to 12:00 am June 13, 2009 (local time). Absent the extensions granted in this Report and Order, existing authorizations to provide analog broadcast service and to construct replacement digital facilities will expire

on the former transition date and a gap in service would occur beginning on February 18th. This would directly contravene the purpose of the DTV Delay to afford viewers more time in which to prepare for the digital transition.

4. We remind stations that they may complete construction of their post-transition digital facilities before June 12 at 11:59:59 pm, but may not operate such facilities before 12:00 am June 13, 2009 (local time) without express Commission approval because operation of a facility that has been authorized for post-transition but not pre-transition service could cause impermissible interference to pre-transition broadcasting. Therefore, stations that wish to operate a post-transition facility before 12:00 am June 13, 2009 (local time) must request special temporary authority (STA) from the Commission via the "DTV engineering STA," including the appropriate engineering analysis.

B. February 11 Public Notice

1. Delegated Authority To Consider Waiver Reinstatement

5. We hereby delegate authority to the Media Bureau to determine whether showings submitted in response to the Commission's February 11, 2009 Public Notice justify reinstatement of the conditional waiver necessary to terminate analog service on February 17, 2009. The *February 11 Public Notice* reconsidered the partial waiver granted in an earlier public notice with regard to a number of stations intending to terminate analog service on February 17, 2009, based on the conclusion that termination by such stations poses a significant risk of substantial public harm. The stations in question, which are listed in the Appendix to the *February 11 Public Notice*, may not terminate analog service on February 17 unless they obtain reinstatement of the waiver of the procedures set forth in the *Third DTV Periodic Report and Order* by (1) making certain certifications by February 13 or (2) by showing "that extraordinary, exigent circumstances, such as the unavoidable loss of their analog site or extreme economic hardship, require that they terminate their analog service on February 17th." A station electing to submit such a showing (as opposed to a station making a self-effectuating certification) "must await a determination by the Commission that its showing is sufficient before terminating analog service." The Commission stated in the *February 11 Public Notice* that we would try to make such determinations

before February 17th. Accordingly, and to expedite such determinations, we delegate authority to the Media Bureau to make the required determinations and notify stations of the results.

2. Sua Sponte Reconsideration

a. February 5 Public Notice

6. By this Order, we reconsider the limitation adopted in the *February 5 Public Notice* that stated: "We expect that stations indicating their intent to terminate their analog service on February 17 will do so. Therefore, as a condition of the waiver granted herein, the Commission will not permit stations to withdraw or modify these notifications except in the event of emergency or disaster necessitating the continued operation of analog service. The analog operations of stations submitting notification of intent to terminate analog service on February 17, 2009 pursuant to this Public Notice will no longer be protected from interference after February 17, 2009." Some stations that were not on the Appendix to the *February 11 Public Notice* have expressed interest in withdrawing their notifications for good reasons associated with circumstances in their markets, but not rising to the level of an "emergency or disaster." We find that it is in the public interest to allow stations to withdraw their notifications of intent to terminate analog service on February 17, 2009.

7. Due to the limited period of time remaining before February 17th, stations that wish to withdraw their notifications must notify us no later than 6:00 pm EST on Saturday, February 14, 2009. Stations should send an e-mail to: Barbara.Kreisman@fcc.gov, and place "Withdrawal of Termination Notification" in the subject line. (Stations listed in the Appendix to the *February 11 Public Notice* that choose not to terminate their analog service may so indicate on the form as described in footnote 10 to the *February 11 Public Notice*; they should not and need not send notifications to this e-mail address.) Stations should also revise their "Viewer Notifications" to reflect their change in plans as soon as possible.

b. February 11 Public Notice

8. By this Order, we also reconsider and make a minor adjustment to one of the conditions set forth in the *February 11 Public Notice*. The third condition stated, in relevant part: "Ensure that enhanced nightlight service concerning the DTV transition or emergency information will be provided in Spanish and English and accessible to the

disability community * * * Some stations have maintained that they do not have the capability of translating emergency information into Spanish. We also note that neither our rules nor the Analog Nightlight Act require emergency information in Spanish; rather the Analog Nightlight Act requires only that information concerning the DTV transition be provided in both English and Spanish. (See Section 2(b) of the Short-term Analog Flash and Emergency Readiness Act. We also urge stations to provide DTV transition information in other languages as appropriate for their viewers.)

9. We recognize the value and importance of ensuring that emergency information is available in Spanish for many viewers. However, we do not wish to prevent stations that can otherwise comply fully with the eight public interest conditions set forth in the *February 11 Public Notice* from doing so and proceeding with their analog termination, as provided in the *February 11 Public Notice*. Therefore, we will not require stations to provide emergency information in Spanish if the station does not otherwise provide Spanish language programming. We certainly encourage stations to broadcast emergency information in Spanish or other languages as needed by their viewers. The requirement for DTV transition information in Spanish remains in place.

C. Additional Information

10. For additional information, contact Evan Baranoff, Evan.Baranoff@fcc.gov, of the Media Bureau, Policy Division, at (202) 418-7142.

III. Ordering Clauses

11. *It is ordered* that, pursuant to the authority contained in Sections 4, and 303 of the Communications Act of 1934, as amended, 47 U.S.C. 154 and 303, and Sections 2 and 4(c) of the DTV Delay Act, DTV Delay Act 2, 4(c), this Report and Order *is adopted*.

12. *It is also ordered*, pursuant to the authority contained in Section 4(c) of the DTV Delay Act, DTV Delay Act Section 4(c), the actions herein are effective upon release of this Report and Order. As discussed above, the actions herein must be effective no later than February 17, 2009 at 11:59:59 pm to avoid a gap in analog broadcast service

that would harm viewers and directly contravene the purposes of the DTV Delay. The Commission is releasing this Report and Order on Friday, February 13, 2009, only two days after the DTV Delay Act's enactment on February 11, 2009, and the last business day before February 17, 2009 (Monday, February 16 is a federal holiday). As a result, we find that there is good cause to make the actions herein effective upon release of this Report and Order by the Commission (*i.e.*, February 13, 2009).

Federal Communications Commission.

William F. Caton,

Deputy Secretary.

[FR Doc. E9-3600 Filed 2-17-09; 11:15 am]

BILLING CODE 6712-01-P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 09-187; MB Docket No. 08-250; RM-11508]

Television Broadcasting Services; Santa Ana, CA

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission grants a petition for rulemaking filed by Trinity Christian Center of Santa Ana, Inc., d/b/a Trinity Broadcasting Network, the licensee of station KTBN-DT, to substitute DTV channel 33 for its assigned post-transition DTV channel 23 at Santa Ana, California.

DATES: This rule is effective March 23, 2009.

FOR FURTHER INFORMATION CONTACT: Adrienne Y. Denysyk, Media Bureau, (202) 418-1600.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Report and Order*, MB Docket No. 08-250, adopted February 4, 2009, and released February 7, 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 information collection requirements subject to the Paperwork Reduction Act of 1995, Public Law 104-13. In addition, therefore, it does not contain any 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.

The Commission will send a copy of this *Report and Order* in a report to be sent to Congress and the Government Accountability Office pursuant to the Congressional Review Act, *see* 5 U.S.C. 801(a)(1)(A).

List of Subjects in 47 CFR Part 73

Television, Television broadcasting.

■ For the reasons discussed in the preamble, the Federal Communications Commission amends 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 California, is amended by adding DTV channel 33 and removing DTV channel 23 at Santa Ana.

Federal Communications Commission.

Clay C. Pendarvis,

Associate Chief, Video Division, Media Bureau.

[FR Doc. E9-3445 Filed 2-18-09; 8:45 am]

BILLING CODE 6712-01-P

Notices

Federal Register

Vol. 74, No. 32

Thursday, February 19, 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.

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the Virginia Advisory Committee and a Subcommittee of the District of Columbia Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission), and the Federal Advisory Committee Act (FACA) that a joint project planning meeting of the Virginia Advisory Committee and a subcommittee of the District of Columbia Advisory Committee will convene on Thursday, March 5, 2009, from 3 p.m. to 4 p.m. The purpose of the meeting is to plan future joint project activities.

The meeting will be conducted by conference call and is available to the public through the following call-in number: (800) 516-9896, access code: 98105. Any interested member of the public may call this number and listen to the meeting. Callers can expect to incur charges for calls over wireless lines, and the Commission will not refund any incurred charges. Callers will incur no charge for calls using the call-in number over land-line connections. Persons with hearing impairments may also follow the proceedings by first calling the Federal Relay Service at 1-800-977-8339 and providing the Service with the conference call number and the access code.

To ensure that the Commission secures an appropriate number of lines for the public, persons are asked to register by contacting Alfreda Greene, Secretary of the Eastern Regional Office, office number (202) 376-7533, TTY (202) 376-8116, by 4 p.m., Tuesday, March 3, 2009.

Members of the public are entitled to submit written comments. The address is Eastern Regional Office, 624 9th St., NW., Washington, DC 20425. Persons wishing to submit their comments, or

who desire additional information should contact Alfreda Greene, Secretary, at 202-376-7533 or by e-mail to: agreen@usccr.gov.

Records generated from this meeting may be inspected and reproduced at the Eastern Regional Office, as they become available, both before and after the meeting. Persons interested in the work of these advisory committees are advised to go to the Commission's Web site, <http://www.usccr.gov>, or to contact the Eastern Regional Office at the above e-mail or street address.

The meeting will be conducted pursuant to the rules and regulations of the Commission and FACA.

Christopher Byrnes,

Chief, Regional Programs Coordination Unit.
[FR Doc. E9-3516 Filed 2-18-09; 8:45 am]

BILLING CODE 6335-01-P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: National Oceanic and Atmospheric Administration (NOAA).

Title: Application and Reports for Registration as a Tanner or Agent.

Form Number(s): None.

OMB Approval Number: 0648-0179.

Type of Request: Regular submission.

Burden Hours: 112.

Number of Respondents: 54.

Average Hours per Response: 2 hours.

Needs and Uses: The Marine Mammal Protection Act (MMPA) (16 U.S.C. 1361 *et seq.*, Sections 1371, 1373, 1374 and 1379), mandates the protection and conservation of marine mammals and makes the taking, killing or serious injury of marine mammals, except under permit or exemption, a violation of the Act. An exemption is provided for Alaskan natives to take marine mammals if the taking is for subsistence or for creating and selling authentic native articles of handicraft and clothing. The possession of marine mammals and marine mammal parts by other than Alaskan natives is therefore prohibited (exception, 50 CFR 216.26:

beach found non-Endangered Species Act (ESA) teeth or bones that have been registered with National Marine Fisheries Service (NMFS)). As native handicrafts are allowed by the MMPA to enter interstate commerce, an exemption is also needed to allow non-natives to handle the skins or other marine mammal produce, whether to tan the pinniped hide or to act as an agent for the native to sell his handicraft products.

Affected Public: Business or other for-profit organizations; State, local or tribal government.

Frequency: Annually.

Respondent's Obligation: Mandatory.

OMB Desk Officer: David Rostker, (202) 395-3897.

Copies of the above information collection proposal can be obtained by calling or writing Diana Hynek, Departmental Paperwork Clearance Officer, (202) 482-0266, Department of Commerce, Room 7845, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at dHynek@doc.gov).

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to David Rostker, OMB Desk Officer, FAX number (202) 395-7285, or David_Rostker@omb.eop.gov.

Dated: February 12, 2009.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. E9-3457 Filed 2-18-09; 8:45 am]

BILLING CODE 3510-22-P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

[Docket No. 0812221638-9166-02]

Request for Public Comments on the Effects of Export Controls on Decisions To Use or Not Use U.S.-Origin Parts and Components in Commercial Products and the Effects of Such Decisions

AGENCY: Bureau of Industry and Security, Department of Commerce.

ACTION: Notice of Inquiry; extension of comment period.

SUMMARY: This notice extends the comment period for a notice of inquiry

in which BIS requested comments on the effects of export controls on decisions to use or not use U.S.-origin parts and components in commercial products and the effects of such decisions.

DATES: Comments must be received by April 20, 2009.

ADDRESSES: Comments may be submitted via e-mail to publiccomments@bis.doc.gov. Please Refer to "Parts and Components Inquiry" in the subject line. Comments may also be sent to Parts and Components Study, Office of Technology Evaluation, Room 2705, U.S. Department of Commerce, 14th Street and Pennsylvania Avenue, NW., Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Jennifer Watts, Office of Technology Evaluation, Bureau of Industry and Security, telephone: 202-482-8343; fax: 202-482-5361; e-mail jwatts@bis.doc.gov.

SUPPLEMENTARY INFORMATION: The Bureau of Industry and Security published a notice of inquiry requesting comments on the effects of export controls on decisions to use or not use U.S.-origin parts and components in commercial products and the effects of such decisions (74 FR 263, January 5, 2009). That notice set a due date of February 19, 2009 for receipt of public comments by BIS. BIS is now extending the comment period to April 20, 2009 to allow the public more time to comment.

Dated: February 13, 2009.

Matthew S. Borman,
Acting Assistant Secretary for Export Administration.

[FR Doc. E9-3525 Filed 2-18-09; 8:45 am]

BILLING CODE 3501-33-P

DEPARTMENT OF COMMERCE

International Trade Administration

[A-552-801]

Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Rescission of Antidumping Duty Changed Circumstances Review

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

SUMMARY: On August 21, 2007, in response to a request from an interested party, the Department of Commerce ("Department") initiated a changed circumstances review of the antidumping duty order on certain frozen fish fillets from Socialist Republic of Vietnam ("Vietnam"). See

Certain Frozen Fish Fillets from Vietnam: Notice of Initiation and Preliminary Results of Changed Circumstances Review, 72 FR 46604 (August 21, 2007) ("*Initiation and Preliminary Results*"). We are rescinding the changed circumstances review because we have initiated an administrative review covering the firms in question and intend to address any considerations arising from the changed circumstances review within the context of the 2007/2008 administrative review of this order.

EFFECTIVE DATE: February 19, 2009.

FOR FURTHER INFORMATION CONTACT: Javier Barrientos, AD/CVD Operations, Office 9, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone (202) 482-2243.

SUPPLEMENTARY INFORMATION:

Background

On August 21, 2007, the Department issued its initiation and preliminary results. See *Initiation and Preliminary Results*. As part of the *Initiation and Preliminary Results*, the Department invited interested parties to submit case and rebuttal briefs, and provided parties the opportunity to request a hearing. *Id.* at 46606. On September 20, 2007, the Catfish Farmers of America and individual U.S. catfish processors (collectively "Petitioners") submitted their case brief. No other party submitted briefs. On September 25, 2007, Vinh Hoan Co., Ltd./Corporation ("Vinh Hoan") submitted a rebuttal brief. Based on parties' comments in their case and rebuttal briefs, the Department issued Vinh Hoan a questionnaire on February 13, 2008, and received its response on February 29, 2008. Because the Department issued its questionnaire subsequent to the briefing schedule, we invited parties to comment on Vinh Hoan's February 29, 2008, response. See Memo to the File, dated May 16, 2008. On May 23, 2008, the Department received a supplemental brief from Petitioners. On May 28, 2008, the Department received a rebuttal brief from Vinh Hoan. Based on continuing questions regarding affiliation issues, the Department issued Vinh Hoan and its affiliate a supplemental questionnaire on September 11, 2008, and received their response on September 29, 2008.

On September 30, 2008, we initiated the 2007/2008 administrative review on certain frozen fish fillets from Vietnam. See *Initiation of Antidumping and Countervailing Duty Administrative*

Reviews and Requests for Revocation in Part, 73 FR 56795 (September 30, 2008). On October 29, 2008, the Department issued its respondent selection memorandum, wherein Vinh Hoan was selected as a mandatory respondent in the 2007/2008 administrative review. On November 3, 2008, the Department issued Vinh Hoan its initial administrative review questionnaire, including questions regarding its affiliations. On November 24, 2008, December 10, 2008, and December 23, 2008, the Department received Vinh Hoan's and its affiliate's Section A, Section C, and Section D questionnaire responses.

Scope of the Order

The product covered by the order is frozen fish fillets, including regular, shank, and strip fillets and portions thereof, whether or not breaded or marinated, of the species *Pangasius Bocourti*, *Pangasius Hypophthalmus* (also known as *Pangasius Pangasius*), and *Pangasius Micronemus*. Frozen fish fillets are lengthwise cuts of whole fish. The fillet products covered by the scope include boneless fillets with the belly flap intact ("regular" fillets), boneless fillets with the belly flap removed ("shank" fillets), boneless shank fillets cut into strips ("fillet strips/finger"), which include fillets cut into strips, chunks, blocks, skewers, or any other shape. Specifically excluded from the scope are frozen whole fish (whether or not dressed), frozen steaks, and frozen belly-flap nuggets. Frozen whole dressed fish are deheaded, skinned, and eviscerated. Steaks are bone-in, cross-section cuts of dressed fish. Nuggets are the belly-flaps. The subject merchandise will be hereinafter referred to as frozen "basa" and "tra" fillets, which are the Vietnamese common names for these species of fish. These products are classifiable under tariff article codes 1604.19.4000, 1604.19.5000, 0305.59.4000, 0304.29.6033 (Frozen Fish Fillets of the species *Pangasius* including basa and tra) of the Harmonized Tariff Schedule of the United States ("HTSUS").¹ The order covers all frozen fish fillets meeting the above specification, regardless of tariff classification. Although the HTSUS subheadings are provided for convenience and customs

¹ Until July 1, 2004, these products were classifiable under tariff article codes 0304.20.60.30 (Frozen Catfish Fillets), 0304.20.60.96 (Frozen Fish Fillets, NESOI), 0304.20.60.43 (Frozen Freshwater Fish Fillets) and 0304.20.60.57 (Frozen Sole Fillets) of the HTSUS. Until February 1, 2007, these products were classifiable under tariff article code 0304.20.60.33 (Frozen Fish Fillets of the species *Pangasius* including basa and tra) of the HTSUS.

purposes, our written description of the scope of the order is dispositive.

Rescission of Changed Circumstances Review

Because Vinh Hoan has been selected as a respondent for individual examination in the ongoing administrative review, we will be examining the impact of the affiliation in that proceeding. This examination will include addressing issues with respect to the production and/or sales Vinh Hoan and its affiliate, or their subsidiaries, made to the United States during the period of review and the effect that any affiliation may have had on the operations and management of the relevant firms for purposes of determining, among other things, whether Vinh Hoan and its affiliate should be treated as a single entity. Thus, we intend to address all issues arising out of the changed circumstances review on certain frozen fish fillets from Vietnam in the context of the 2007/2008 administrative review. Accordingly, we are rescinding the changed circumstances review with respect to the antidumping duty order on certain frozen fish fillets from Vietnam.

We will incorporate the record of the rescinded changed circumstances review into the record of the 2007/2008 administrative review.

Dated: February 10, 2009.

Gary Taverman,

Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. E9-3544 Filed 2-18-09; 8:45 am]

BILLING CODE 3510-DS-S

DEPARTMENT OF COMMERCE

International Trade Administration

[A-570-905]

Certain Polyester Staple Fiber from the People's Republic of China: Extension of Time Limit for the Preliminary Results of the Administrative Review

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

EFFECTIVE DATE: February 19, 2009.

FOR FURTHER INFORMATION CONTACT: Emeka Chukwudebe, AD/CVD Operations, Office 9, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-0219.

Background

On July 30, 2008, the Department published a notice of initiation of an administrative review of certain polyester staple fiber from the People's Republic of China covering the period December 26, 2006, through May 31, 2008. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews, Request for Revocation in Part, and Deferral of Administrative Review*, 73 FR 44220 (July 30, 2008). The preliminary results are currently due no later than March 2, 2009.

Statutory Time Limits

Section 751(a)(3)(A) of the Tariff Act of 1930, as amended ("the Act"), requires the Department to make a preliminary determination within 245 days after the last day of the anniversary month of an order for which a review is requested and a final determination within 120 days after the date on which the preliminary results are published. However, if it is not practicable to complete the review within these time periods, section 751(a)(3)(A) of the Act allows the Department to extend the time limit for the preliminary determination to a maximum of 365 days after the last day of the anniversary month.

Extension of Time Limit of Preliminary Results

We determine that it is not practicable to complete the preliminary results of this review within the original time limit because the Department requires additional time to analyze the supplemental questionnaire responses, possibly issue additional supplemental questionnaires, and evaluate the most appropriate surrogate values on the administrative record to use in this segment of the proceeding. Therefore, the Department is extending the time limit for completion of the preliminary results by 120 days. The preliminary results will now be due no later than June 30, 2009. The final results continue to be due 120 days after the publication of the preliminary results.

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

Dated: February 11, 2009.

Gary Taverman,

Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. E9-3539 Filed 2-18-09; 8:45 am]

BILLING CODE 3510-DS-S

DEPARTMENT OF COMMERCE

International Trade Administration

[A-570-806]

Silicon Metal from the People's Republic of China: Extension of Preliminary Results of Antidumping Duty Administrative Review

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

SUMMARY: The Department of Commerce ("Department") is extending the time limit for the preliminary results of the administrative review of silicon metal from the People's Republic of China ("PRC"). This review covers the period June 1, 2007, through May 31, 2008.

EFFECTIVE DATE: February 19, 2009.

FOR FURTHER INFORMATION CONTACT: Bobby Wong or Jerry Huang, AD/CVD Operations, Office 9, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, DC 20230; telephone: (202) 482-0409 or (202) 482-4047, respectively.

Background

On July 30, 2008, the Department published a notice of initiation of the administrative review of the antidumping duty order on silicon metal from the PRC. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews, Request for Revocation in Part, and Deferral of Administrative Review*, 73 FR 44220 (July 30, 2008). The preliminary results of this review are currently due no later than March 2, 2009.

Statutory Time Limits

In antidumping duty administrative reviews, section 751(a)(3)(A) of the Tariff Act of 1930, as amended ("the Act"), requires the Department to make a preliminary determination within 245 days after the last day of the anniversary month of an order for which a review is requested and a final determination within 120 days after the date on which the preliminary results are published. However, if it is not practicable to complete the review within these time periods, section 751(a)(3)(A) of the Act allows the Department to extend the time limit for the preliminary determination to a maximum of 365 days after the last day of the anniversary month.

Extension of Time Limit for Preliminary Results of Review

We determine that it is not practicable to complete the preliminary results of

this administrative review within the original time limit because the Department requires additional time to analyze questionnaire responses, issue supplemental questionnaires, conduct verification, and to evaluate surrogate value submissions for purposes of the preliminary results.

Therefore, the Department is extending the time limit for completion of the preliminary results of this administrative review by 120 days. The preliminary results will now be due no later than June 30, 2009. The final results continue to be due 120 days after the publication of the preliminary results.

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

Dated: February 12, 2009.

John M. Andersen,

Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. E9-3538 Filed 2-18-09; 8:45 am]

BILLING CODE 3510-DS-S

DEPARTMENT OF COMMERCE

International Trade Administration

[A-570-601]

Tapered Roller Bearings and Parts Thereof, Finished or Unfinished, from the People's Republic of China: Extension of Time Limit for the Preliminary Results of the 2007-2008 Administrative Review of the Antidumping Duty Order

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

EFFECTIVE DATE: February 19, 2009.

FOR FURTHER INFORMATION CONTACT: Frances Veith or Brendan Quinn, AD/CVD Operations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230, telephone: (202) 482-4295 or (202) 482-5848, respectively.

SUPPLEMENTARY INFORMATION:

Background

On July 30, 2008, the Department of Commerce ("the Department") initiated the administrative review of the antidumping duty order on tapered roller bearings and parts thereof, finished or unfinished, from the People's Republic of China ("PRC") for the period June 1, 2007 through May 31, 2008. See *Initiation of Antidumping and Countervailing Duty Administrative*

Reviews, Request for Revocation in Part, and Deferral of Administrative Review, 73 FR 44220 (July 30, 2008). The preliminary results are currently due no later than March 2, 2009.

Statutory Time Limits

Section 751(a)(3)(A) of the Tariff Act of 1930, as amended ("the Act"), requires the Department to make a preliminary determination in an administrative review within 245 days after the last day of the anniversary month of an order for which a review is requested and a final determination within 120 days after the date on which the preliminary results are published. However, if it is not practicable to complete the review within these time periods, section 751(a)(3)(A) of the Act allows the Department to extend the time limit for the preliminary determination to a maximum of 365 days after the last day of the anniversary month.

Extension of Time Limit of Preliminary Results

We determine that it is not practicable to complete the preliminary results of this review within the original time limit because the Department requires additional time to analyze the supplemental questionnaire responses, issue additional supplemental questionnaires if necessary, and evaluate the most appropriate surrogate values on the administrative record to use in this segment of the proceeding. Therefore, the Department is extending the time limit for completion of the preliminary results by 90 days. An extension of 90 days from the current deadline of March 2, 2009, would result in a new deadline of May 31, 2009. However, since May 31, 2009, falls on a Sunday, a non-business day, the preliminary results will now be due no later than June 1, 2009, the next business day. The final results continue to be due 120 days after the publication of the preliminary results.

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

Dated: February 12, 2009.

John M. Andersen,

Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. E9-3546 Filed 2-18-09; 8:45 am]

BILLING CODE 3510-DS-S

DEPARTMENT OF COMMERCE

International Trade Administration

[A-570-928]

Uncovered Innerspring Units from the People's Republic of China: Notice of Antidumping Duty Order

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

SUMMARY: Based on affirmative final determinations by the Department of Commerce ("Department") and the International Trade Commission ("ITC"), the Department is issuing an antidumping duty order on uncovered innerspring units ("innersprings") from the People's Republic of China ("PRC"). On February 11, 2009, the ITC notified the Department of its affirmative determination of material injury to a U.S. industry. See *Uncovered Innerspring Units from China* (Investigation No. 731-TA-1140 (Final), USITC Publication 4061, February 2009).

EFFECTIVE DATE: February 19, 2009.

FOR FURTHER INFORMATION CONTACT:

Susan Pulongbarit or Paul Walker, AD/CVD Operations, Office 9, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482-4031, or (202) 482-0413, respectively.

SUPPLEMENTARY INFORMATION:

Background

In accordance with sections 735(d) and 777(i)(1) of the Tariff Act of 1930, as amended (the "Act"), on December 29, 2008, the Department published its final determination of sales at less than fair value in the antidumping investigation of innersprings from the PRC. See *Uncovered Innerspring Units From the People's Republic of China: Final Determination of Sales at Less Than Fair Value*, 73 FR 79443 (December 29, 2008).

Scope of the Order

The merchandise subject to this order is uncovered innerspring units composed of a series of individual metal springs joined together in sizes corresponding to the sizes of adult mattresses (e.g., twin, twin long, full, full long, queen, California king, and king) and units used in smaller constructions, such as crib and youth mattresses. All uncovered innerspring units are included in this scope regardless of width and length. Included within this definition are innersprings

typically ranging from 30.5 inches to 76 inches in width and 68 inches to 84 inches in length. Innersprings for crib mattresses typically range from 25 inches to 27 inches in width and 50 inches to 52 inches in length.

Uncovered innerspring units are suitable for use as the innerspring component in the manufacture of innerspring mattresses, including mattresses that incorporate a foam encasement around the innerspring.

Pocketed and non-pocketed innerspring units are included in this definition. Non-pocketed innersprings are typically joined together with helical wire and border rods. Non-pocketed innersprings are included in this definition regardless of whether they have border rods attached to the perimeter of the innerspring. Pocketed innersprings are individual coils covered by a “pocket” or “sock” of a nonwoven synthetic material or woven material and then glued together in a linear fashion.

Uncovered innersprings are classified under subheading 9404.29.9010 and have also been classified under subheadings 9404.10.0000, 7326.20.0070, 7320.20.5010, or 7320.90.5010 of the Harmonized Tariff Schedule of the United States (“HTSUS”). The HTSUS subheadings are provided for convenience and customs purposes only; the written description of the scope of the order is dispositive.

Antidumping Duty Order

On February 11, 2009, in accordance with section 735(d) of the Act, the ITC notified the Department of its final

determination, pursuant to section 735(b)(1)(A)(i) of the Act, that an industry in the United States is materially injured by reason of less-than-fair-value imports of subject merchandise from the PRC. Therefore, in accordance with section 736(a)(1) of the Act, the Department will direct U.S. Customs and Border Protection (“CBP”) to assess, upon further instruction by the Department, antidumping duties equal to the amount by which the normal value of the merchandise exceeds the export price (or constructed export price) of the merchandise for all relevant entries of innersprings from the PRC. These antidumping duties will be assessed on all unliquidated entries of innersprings from the PRC entered, or withdrawn from the warehouse, for consumption on or after August 6, 2008, the date on which the Department published its preliminary determination. *See Uncovered Innerspring Units from the People’s Republic of China: Preliminary Determination of Sales at Less Than Fair Value*, 73 FR 45729 (August 6, 2008).

Section 733(d) of the Act states that instructions issued pursuant to an affirmative preliminary determination may not remain in effect for more than four months except where exporters representing a significant proportion of exports of the subject merchandise request the Department to extend that four-month period to no more than six months. At the request of exporters that account for a significant proportion of innersprings, we extended the four-month period to no more than six months. *See Postponement of Final*

Determination of Antidumping Duty Investigation: Uncovered Innerspring Units from the People’s Republic of China, 73 FR 50932 (August 29, 2008). In this investigation, the six-month period beginning on the date of the publication of the preliminary determination ended on February 2, 2009. Furthermore, section 737 of the Act states that definitive duties are to begin on the date of publication of the ITC’s final injury determination. Therefore, in accordance with section 733(d) of the Act and our practice, we will instruct CBP to terminate the suspension of liquidation and to liquidate, without regard to antidumping duties, unliquidated entries of innersprings from the PRC entered, or withdrawn from warehouse, for consumption on or after February 2, 2009, and before the date of publication of the ITC’s final injury determination in the **Federal Register**. Suspension of liquidation will resume on or after the date of publication of the ITC’s final injury determination in the **Federal Register**.

Effective on the date of publication of the ITC’s final affirmative injury determination in the **Federal Register**, CBP, pursuant to section 735(c)(3) of the Act, will require, at the same time as importers would normally deposit estimated duties on this merchandise, a cash deposit equal to the estimated weighted-average antidumping duty margins as listed below. The “PRC-wide” rate applies to all exporters of subject merchandise not specifically listed. The weighted-average dumping margins are as follows:

Exporter	Producer	Weighted-Average Margin
Anshan Yuhua Industrial Trade Co., Ltd.	Anshan Yuhua Industrial Trade Co., Ltd.	164.75%
East Grace Corporation	Wuxi Xihuisheng Commercial Co., Ltd.	164.75%
Foshan Jingxin Steel Wire & Spring Co., Ltd.	Foshan Jingxin Steel Wire & Spring Co., Ltd.	234.51%
Hebei Yililan Furniture Co., Ltd.	Hebei Yililan Furniture Co., Ltd.	164.75%
Nanjing Meihua Import & Export Trade Co., Ltd.	Nanjing Dongdai Furniture Co., Ltd.	164.75%
Xilinmen Group Co., Ltd.	Xilinmen Furniture Co., Ltd.	164.75%
Zhejiang Sanmen Herod Mattress Co., Ltd.	Zhejiang Sanmen Herod Mattress Co., Ltd.	164.75%
Zibo Senbao Furniture Co., Ltd.	Zibo Senbao Furniture Co., Ltd.	164.75%
PRC-wide (including High Hope Int’l Group Jiangsu Native Produce Imp. & Exp. Corp. Ltd. and Jiangsu Soho International Group Holding Co., Ltd.)		234.51%

This notice constitutes the antidumping duty order with respect to innersprings from the PRC pursuant to section 736(a) of the Act. Interested parties may contact the Department's Central Records Unit, Room 1117 of the main Commerce building, for copies of an updated list of antidumping duty orders currently in effect.

This order is published in accordance with section 736(a) of the Act and 19 CFR 351.211.

Dated: February 13, 2009.

Ronald K. Lorentzen,

Acting Assistant Secretary for Import Administration.

[FR Doc. E9-3652 Filed 2-18-09; 8:45 am]

BILLING CODE 3510-DS-S

DEPARTMENT OF COMMERCE

National Telecommunications and Information Administration

[Docket No. 090210159-9160-01]

Notice of Availability of a Final Programmatic Environmental Assessment (PEA) and Draft Finding of No Significant Impact (FONSI) for the Public Safety Interoperable Communications (PSIC) Grant Program

AGENCY: National Telecommunications and Information Administration, U.S. Department of Commerce.

ACTION: Notice; request for comments.

SUMMARY: The National Telecommunications and Information Administration (NTIA) publishes this notice of availability to announce a 30-day comment period for a Final Programmatic Environmental Assessment (PEA) and Draft Finding of No Significant Impact (FONSI) written to evaluate the environmental impact of the Public Safety Interoperable Communications (PSIC) Grant Program. The Final PEA and Draft FONSI for the PSIC Grant Program are available for public review and comment. NTIA seeks public comment on the Final PEA and Draft FONSI from all interested parties.

DATES: Comments on the Final PEA and Draft FONSI must be received on or before March 23, 2009.

ADDRESSES: The Final PEA and Draft FONSI are available online at: <http://www.regulations.gov> with detailed instructions for making comments. Alternatively, written comments may be submitted to Ms. Laura Pettus, PSIC Grant Program, National Telecommunications and Information Administration, Room 4812, 1401

Constitution Avenue, NW, Washington, DC 20230. The Final PEA and Draft FONSI will also be available on NTIA's website at <http://www.ntia.doc.gov/psic>. All comments submitted will be posted on Regulations.gov.

FOR FURTHER INFORMATION CONTACT:

Written requests for a hard copy of the Final PEA and the Draft FONSI should be submitted to: Ms. Laura Pettus, National Telecommunications and Information Administration, Room 4812, 1401 Constitution Avenue, NW, Washington, DC 20230.

SUPPLEMENTARY INFORMATION: The Digital Television Transition and Public Safety Act of 2005 directed NTIA, in consultation with the Department of Homeland Security (DHS), to establish and administer a grant program to assist public safety agencies in the advancement of interoperable communications.¹ The Act authorized NTIA to make payments not to exceed \$1 billion, in the aggregate, through fiscal year 2010 to carry out the PSIC program. The grant program assisted public safety agencies in the acquisition of, deployment of, or training for the use of interoperable communications systems that can utilize reallocated public safety spectrum in the 700 MHz band for radio communication.²

On September 30, 2007, the Public Safety Interoperable Communications (PSIC) Grant Program awarded \$968,385,000 to fund interoperable communications projects from the 56 States and Territories.³ These awards represent the largest single infusion of Federal funding ever provided for State, Territory, and local agencies to implement communications solutions.

NTIA prepared the final PEA and draft FONSI in accordance with the requirements of the National Environmental Policy Act of 1969 (NEPA) and the Council on Environmental Quality (CEQ) regulations for implementing NEPA.⁴

¹ The Digital Television Transition and Public Safety Act of 2005 § 3006, 47 U.S.C. § 309 note (2008), Pub. L. No. 109-171, 120 Stat. 25. The PSIC grant program requirements were subsequently amended by the Implementing Recommendations of the 9/11 Commission Act of 2007 § 2201, 47 U.S.C. § 309 note (2008), Pub. L. No. 110-53, 121 Stat. 276.

² For additional information regarding the PSIC Grant Program, see, Public Safety Interoperable Communications Grant Program, Improving Interoperable Communications Nationwide: Overview of Initial State and Territory Investments, available at, [http://www.ntia.doc.gov/psic/PSIC%20Investment%20Data%20Analysis%20\(report%20only\).pdf](http://www.ntia.doc.gov/psic/PSIC%20Investment%20Data%20Analysis%20(report%20only).pdf).

³ Section 4 of the Call Home Act of 2006, 47 U.S.C. § 309 note (2008), Pub. L. No. 109-459, 120 Stat. 3399, mandated that all PSIC funds be awarded by September 30, 2007.

⁴ National Environmental Policy Act of 1969, 42 U.S.C. § 4321 (2008); Council on Environmental

The public is invited to submit comments on both documents. See the ADDRESSES for instructions on submitting comments. The final PEA and draft FONSI may be reviewed at <http://www.regulations.gov> or on NTIA's website as noted above. In addition, copies may be obtained by writing to Ms. Laura Pettus as provided above.

Dated: February 13, 2009.

Kathy D. Smith,

Chief Counsel, National Telecommunications and Information Administration.

[FR Doc. E9-3494 Filed 2-18-09; 8:45 am]

BILLING CODE 3510-60-S

DEPARTMENT OF COMMERCE

National Telecommunications and Information Administration

[Docket No. 070920527-9169-03]

Low Power Television and Translator Digital-to-Analog Conversion Program: Extension of Closing Date

AGENCY: National Telecommunications and Information Administration (NTIA), U.S. Department of Commerce.

ACTION: Notice of Amended Solicitation of Applications.

SUMMARY: The National Telecommunications and Information Administration (NTIA) announces that it is extending the solicitation period for grant applications for the Low Power Television and Translator Digital-to-Analog Conversion Program. Applications must be postmarked on or before Friday, June 12, 2009.

DATES: Applications for Low Power Television and Translator Digital-to-Analog Conversion Program must be postmarked on or before Friday, June 12, 2009. Applications submitted by facsimile will not be accepted.

ADDRESSES: Application forms and instructions are available on the Internet at <http://www.ntia.doc.gov/lptv>. To submit completed applications, or send any other correspondence, write to the Low-Power Conversion Program at the following address: LPTV, Room H-4812, U.S. Department of Commerce, 1401 Constitution Avenue, N.W., Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: William Cooperman, Director, Broadcasting Division, telephone: (202) 482-5802; fax: (202) 482-2156. Information about the Low-Power Television and Translator Digital-to-

Quality for Implementing the Procedural Provisions of NEPA, 40 C.F.R. parts 1500-1508 (2008).

Analog Conversion Program can also be obtained electronically via the Internet at <http://www.ntia.doc.gov/lptv>.

SUPPLEMENTARY INFORMATION: NTIA has established the Low-Power Television and Translator Digital-to-Analog Conversion Program through which each eligible low-power television broadcast station may receive compensation toward the cost of the purchase of a digital-to-analog conversion device that enables it to convert the incoming digital signal of its corresponding full-power television station to analog format for transmission on the low-power television station's analog channel. The conversion devices are necessary so the eligible stations can continue to broadcast in analog after the digital conversion of the full-power station occurs. Without converter devices, the eligible facilities will be unable to receive the incoming off-air digital signal for conversion and rebroadcast to consumers within their coverage area. On October 29, 2007, NTIA publish a notice announcing the availability of funds for this program.¹

The DTV Delay Act, enacted on February 11, 2009, extended the deadline for submission of Low-Power Television and Translator Digital-to-Analog Conversion Program grant applications from February 17, 2009, to June 12, 2009.² This provision amended section 3008(a)(1) of Digital Television Transition and Public Safety Act of 2005.³ Accordingly, NTIA publishes this notice to announce that it is extending the solicitation period for applications for the Low Power Television and Translator Digital-to-Analog Conversion Program. Any applications postmarked between February 18, 2009, and June 12, 2009, will be considered timely and will be given full consideration.

Applications submitted by June 12, 2009, will utilize the same forms, and undergo the same review and evaluation process contained in the Notice of Availability of Funds of October 29, 2007, as amended.⁴ NTIA has approximately \$1 million available for

award and will process applications on a first-come, first-served basis until the \$1 million is exhausted.

Dated: February 13, 2009.

Bernadette McGuire-Rivera,
*Associate Administrator, Office of
Telecommunications and Information
Applications.*

[FR Doc. E9-3485 Filed 2-13-09; 4:15 pm]

BILLING CODE 3510-60-S

DEPARTMENT OF DEFENSE

Office of the Secretary

Advisory Council on Dependents' Education

AGENCY: Department of Defense Education Activity (DoDEA), DoD.

ACTION: Notice of open meeting.

SUMMARY: Under the provisions of the Federal Advisory Committee Act of 1972 (5 U.S.C., Appendix, as amended), the Government in the Sunshine Act of 1976 (5 U.S.C. 552b, as amended), and 41 CFR 102-3.150, the Department of Defense announces that the following Federal advisory committee meeting of the Advisory Council on Dependents' Education will take place:

DATES: Friday, May 1, 2009 from 8 a.m. to 5 p.m. Central European Summer Time.

ADDRESSES: Oranien Hotel, Platter Strasse 2, 65193 Wiesbaden, Germany 49-611-1882-0.

FOR FURTHER INFORMATION CONTACT: Ms. Leesa Rompre, at (703) 588-3128, or at leesa.rompre@hq.dodea.edu.

SUPPLEMENTARY INFORMATION:

Purpose of the Meeting: Recommend to the Director, DoDEA, general policies for the operation of the Department of Defense Dependents Schools (DoDDS); to provide the Director with information about effective educational programs and practices that should be considered by DoDDS; and to perform other tasks as may be required by the Secretary of Defense.

Agenda: The meeting agenda will be the current operational qualities of schools and the institutionalized school improvement processes, as well as other educational matters.

Public's Accessibility to the Meeting: Pursuant to 5 U.S.C. 552b and 41 CFR 102-3.140 through 102-3.165, and the availability of space, this meeting is open to the public. Seating is on a first-come basis.

Committee's Point of Contact: Ms. Leesa Rompre, tel. (703) 588-3128, 4040 North Fairfax Drive, Arlington, VA

22203, e-mail:
leesa.rompre@hq.dodea.edu.

Written Statements: Pursuant to 41 CFR 102-3.105(j) and 102-3.140 and section 10(a)(3) of the Federal Advisory Committee Act of 1972, the public or interested organizations may submit written statements to the Advisory Council on Dependents' Education about its mission and functions. Written statements may be submitted at any time or in response to the stated agenda of the planned meeting of the Advisory Council on Dependents' Education.

All written statements shall be submitted to the Designated Federal Officer for the Advisory Council on Dependents' Education and this individual will ensure that the written statements are provided to the membership for their consideration. For the next meeting of the Advisory Council on Dependents' Education, Mr. Charles Toth, telephone (703) 588-3105, 4040 North Fairfax Drive, Arlington, VA 22203; e-mail: Charlie.Toth@hq.dodea.edu, will be acting in the capacity of the Designated Federal Officer for this committee.

Statements being submitted in response to the agenda mentioned in this notice must be received by the Designated Federal Officer at the address listed above at least fourteen calendar days prior to the meeting which is the subject of this notice. Written statements received after this date may not be provided to or considered by the Advisory Council on Dependents' Education until its next meeting.

The Designated Federal Officer will review all timely submissions with the Advisory Council on Dependents' Education Chairpersons and ensure they are provided to all members of the Advisory Council on Dependents' Education before the meeting that is the subject of this notice.

Oral Statements by the Public to the Membership: Pursuant to 41 CFR 102-3.140(d), time will be allotted for public comments to the Advisory Council on Dependents' Education. Individual comments will be limited to a maximum of five minutes duration. The total time allotted for public comments will not exceed thirty minutes.

Dated: February 11, 2009.

Patricia L. Toppings,
*OSD Federal Register Liaison Officer,
Department of Defense.*
[FR Doc. E9-3510 Filed 2-18-09; 8:45 am]

BILLING CODE 5001-06-P

¹ Low-Power Television and Translator Digital-to-Analog Conversion Program, 72 Fed. Reg. 61,109 (Oct. 29, 2007), available at http://www.ntia.doc.gov/lptv/NOAF_10292007.pdf. This notice was subsequently modified in August 2008 changing application submission deadlines and processing priorities, and announcing availability of funds. Low-Power Television and Translator Digital-to-Analog Conversion Program, 73 Fed. Reg. 50,782 (Aug. 28, 2008), available at http://www.ntia.doc.gov/lptv/consumered_fr_080828.pdf.

² DTV Delay Act, § 2(b)(1), P.L. 111-4, 123 Stat. 112 (2009).

³ Digital Television Transition and Public Safety Act of 2005 § 3008, 47 U.S.C. § 309 note (2008).

⁴ See *supra* note 1.

DEPARTMENT OF DEFENSE**Office of the Secretary****Strategic Environmental Research and Development Program, Scientific Advisory Board****AGENCY:** Department of Defense.**ACTION:** Notice.

SUMMARY: This Notice is published in accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463). The topic of the meeting on March 11-12, 2009 is to review new start and continuing research and development projects requesting Strategic Environmental Research and Development Program funds in excess of \$1M. This meeting is open to the public. Any interested person may attend, appear before, or file statements with the Scientific Advisory Board at the time and in the manner permitted by the Board.

DATES: Wednesday, March 11, 2009 from 9 a.m. to 4 p.m. and Thursday, March 12, 2009 from 9 a.m. to 1 p.m.

ADDRESSES: SERDP Office Conference Center, 901 North Stuart Street, Suite 804, Arlington, VA 22203.

FOR FURTHER INFORMATION CONTACT: Mr. Jonathan Bunger, SERDP Office, 901 North Stuart Street, Suite 303, Arlington, VA or by telephone at (703) 696-2126.

Dated: February 11, 2009.

Patricia L. Toppings,
OSD Federal Register Liaison Officer,
Department of Defense.

[FR Doc. E9-3506 Filed 2-18-09; 8:45 am]

BILLING CODE 5001-06-P**DEPARTMENT OF DEFENSE****Office of the Secretary****[Docket ID: DoD-2009-OS-0023]****Privacy Act of 1974; Systems of Records****AGENCY:** Defense Finance and Accounting Service, DoD.**ACTION:** Notice to amend a system of records.

SUMMARY: The Defense Finance and Accounting Service (DFAS) is proposing to amend a systems of records notice in its inventory of record systems subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended.

DATES: This proposed action will be effective without further notice on March 23, 2009 unless comments are received which would result in a contrary determination.

ADDRESSES: Send comments to the Defense Finance and Accounting Service, FOIA/PA Program Manager, Corporate Communications and Legislative Liaison, 8899 E. 56th Street, Indianapolis, IN 46249-0150.

FOR FURTHER INFORMATION CONTACT: Ms. Linda Krabbenhoft at (303) 589-3510.

SUPPLEMENTARY INFORMATION: The Defense Finance and Accounting Service systems of notices subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The specific changes to the records system being amended is set forth below followed by the notice, as amended, published in its entirety. The proposed amendment is not within the purview of subsection (r) of the Privacy Act of 1974, (5 U.S.C. 552a), as amended, which requires the submission of a new or altered system report.

Dated: February 12, 2009.

Morgan E. Frazier,
Alternate OSD Federal Register Liaison Officer, Department of Defense.

T7332**SYSTEM NAME:**

Defense Debt Management System (DDMS) (June 27, 2002, 67 FR 43292).

CHANGES:

* * * * *

SYSTEM LOCATION:

Delete entry and replace entry with "Defense Finance and Accounting Service, Indianapolis, 8899 E. 56th Street, Indianapolis, IN 46249-2700."

* * * * *

STORAGE:

Delete entry and replace entry with "Paper file folders and electronic storage media."

* * * * *

SAFEGUARDS:

Delete entry and replace entry with "Records are maintained in a controlled facility. Physical entry is restricted by the use of locks, guards, and is accessible only to authorized personnel. Access to records is limited to person(s) responsible for servicing the record in performance of their official duties and who are properly screened and cleared for need-to-know. Access to computerized data is restricted by passwords, which are changed periodically."

* * * * *

SYSTEM MANAGER(S) AND ADDRESS:

Delete entry and replace with "Chief, Debt Management Systems Division,

Directorate of Debt and Claims Management, Defense Finance and Accounting Service, Indianapolis, 8899 E. 56th Street, Indianapolis, IN 46249-2700."

NOTIFICATION PROCEDURE:

Delete entry and replace with "Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the Defense Finance and Accounting Service—Indianapolis, DFAS-HAC/IN, 8899 E. 56th Street, Indianapolis, IN 46249-0150.

The individuals should furnish their name, Social Security Number, telephone number, and reasonably describe the information they are seeking."

RECORD ACCESS PROCEDURES:

Delete entry and replace with "Individuals seeking access to information about themselves contained in this system of records should address written inquiries to the Defense Finance and Accounting Service—Indianapolis, DFAS-HAC/IN, 8899 E. 56th Street, Indianapolis, IN 46249-0150.

The individuals should furnish their name, Social Security Numbers, and reasonably describe the information they are seeking."

* * * * *

CONTESTING RECORD PROCEDURES:

Delete entry and replace with "The DFAS rules for accessing records, for contesting contents and appealing initial agency determinations are published in DFAS Regulation 5400.11-R; 32 CFR part 324; or may be obtained from the Freedom of Information/Privacy Act Program Manager, at Corporate Communications and Legislative Liaison, 8899 E. 56th Street, Indianapolis, IN 46249-0150."

* * * * *

T7332**SYSTEM NAME:**

Defense Debt Management System.

SYSTEM LOCATION:

Defense Finance and Accounting Service, Indianapolis, 8899 E. 56th Street, Indianapolis, IN 46249-2700.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who are indebted to a Department of Defense (DoD) agency that have transferred debts to the Defense Debt Management System serviced by the Defense Finance and Accounting Service. **EXCLUSION:** This system does not include individuals

who are indebted to a DoD agency and who have been identified as currently receiving pay from DoD.

CATEGORIES OF RECORDS IN THE SYSTEM:

Information varies depending on the debtor and the related history of debt billing and follow-up collection activity. These records may include name, Social Security Number, mailing address, original debt principal and the delinquent amount, basis of the debt, date debt arose, late payment charges, office referring the debt, collection efforts, credit reports, collection letters, due process notice, and records of e-mail, telephone, or written correspondence to or from the debtor relating to the debt.

Correspondence with other Federal agencies to initiate the collection of debts through voluntary or involuntary offset procedures against the indebted employees' salaries or compensation due a retiree.

Correspondence with other Federal agencies requesting administrative offset from payments owed to the debtor. These records may include individual's name, rank, date of birth, Social Security Number, debt amount, documentation establishing overpayment status, military pay records, financial status affidavits, credit references, and substantiating documents such as military pay orders, pay adjustment authorizations, military master pay account printouts, records of travel payments, financial record data folders, miscellaneous vouchers, debtor financial records, credit reports, promissory notes, and debtor financial statements.

Information on U.S. Treasury Department, Internal Revenue Service (IRS), U.S. Department of Justice, and U.S. General Accounting Office (GAO) inquiries, judicial proceedings regarding bankruptcy, pay account histories, and token payment information.

Applications for waiver of erroneous payment or for remission of indebtedness with supporting documents including statements of financial status (personal income and expenses), statements of commanders or Defense Accounting Officers, correspondence with debtors, or records of overpayments of Survivor Benefit Plan benefits.

Reports from probate courts regarding the estates of deceased debtors.

Reports from bankruptcy courts regarding claims of the U.S. Government against debtors.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, Departmental Regulations, 5512, 5513, 5514, and

5584; 10 U.S.C. 1442, 1453, 2774, 2775, 9835; 31 U.S.C. 3325, 3342, 3526, 3701, 3702, 3711, 3716–3718; 32 U.S.C. 710, 716; 37 U.S.C. 1007(c); 40 U.S.C. 721, 723, 725, 726, 727, 728, 729; the Debt Collection Act of 1982 (Pub. L. 97–365, as amended by Pub. L. 104–134, the Debt Collection Improvement Act of 1996); Pub. L. 89–508; E.O. 9397 (SSN); and DoD 7000.14–R, Department of Defense Financial Management Regulation, Volume 5, Part Two.

PURPOSE(S):

To administratively manage the collection of debts owed to the Department of Defense (DoD). These debts include, but are not limited to, past due loan payments, overpayments, fines, interest, penalties, administrative fees, and amounts derived from damages, leases, and sales of real or personal property.

To implement the salary offset provisions of 5 U.S.C. 5514, the administrative offset provisions of 31 U.S.C. 3711 and 3716–3718, and the provisions of the Federal Claims Collection Standards (31 CFR parts 900–904), that apply to personal debts.

To permit collection of delinquent claims and debts owed to the U.S. Government under any program or service administered by any creditor DoD Component.

To determine the validity of waivers or to make referrals to the Defense Office of Hearings and Appeals (DOHA).

To maintain records of investigations conducted for the purpose of confirming, canceling, or determining if the debts are accurate or valid, and whether the debt should be remitted or waived.

All records in this system are subject to use in authorized computer matching programs within DoD and with other Federal agencies or non-Federal agencies as regulated by the Privacy Act of 1974 (5 U.S.C. 552a), as amended.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

To the U.S. General Accounting Office, the U.S. Department of Justice, Internal Revenue Service, U.S. Department of Treasury, or other Federal agencies for further collection action on any delinquent account when circumstances warrant.

To commercial credit reporting agencies for the purpose of adding debt

payment or non-payment data to a credit history file on an individual for use in the administration of debt collection. Delinquent debt information may be furnished for the purpose of establishing an inducement for debtors to pay their obligations to the U.S. Government.

To any Federal agency where the debtor is employed or receiving some type of payment from that agency for the purpose of collecting debts owed the U.S. Government by non-centralized offset. Non-centralized offset encompasses an offset program administered by any Federal agency other than the U.S. Department of Treasury. The agency holding the payment subject to offset will use the indebtedness information for collection purposes after counseling the debtor. The collection may be accomplished either voluntarily or involuntarily by initiating administrative or salary offset procedures under the provisions of the Debt Collection Act of 1982 (Pub. L. 97–365, as amended by Public Law 104–134, the Debt Collection Improvement Act of 1996).

To the U.S. Department of the Treasury (DOT) for centralized administrative or salary offset, including the offset of Federal income tax refunds, for the purpose of collecting debts owed the U.S. Government; to the DOT contracted private collection agencies for the purpose of obtaining collection services, including administrative wage garnishment (AWG) in accordance with the Debt Collection Improvement Act of 1996 (Pub. L. 104–134), 31 U.S.C. 3720D, and 31 CFR part 285, to recover moneys owed to the U.S. Government.

To the U.S. Department of Veteran Affairs for administration of laws pertaining to veterans' benefits.

To any Federal agency for the purpose of accomplishing the administrative procedures to collect or dispose of a debt owed to the U.S. Government. This includes, but is not limited to, the Office of Personnel Management for personnel management functions and the Internal Revenue Service to obtain a mailing address of a taxpayer for the purpose of locating such taxpayer to collect or compromise a Federal claim against the taxpayer pursuant to 26 U.S.C. 1603(m)(2), and in accordance with 31 U.S.C. 3711, 3217, and 3718. The Internal Revenue Service may also request locator service for delinquent accounts receivable in order to report closed out accounts as taxable income, including amounts compromised or terminated, and accounts barred from litigation due to age.

To any Federal, state, or local agency for the purpose of conducting an

authorized computer-matching program to identify and locate delinquent debtors for recoument of debts owed DoD.

To publish or otherwise publicly disseminate information regarding the identity of the debtor and the existence of the non-tax debt, subject to review by the Secretary of the Treasury.

The DoD "Blanket Routine Uses" published at the beginning of the DFAS compilation of record system notices also apply to this system.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosures pursuant to 5 U.S.C. 552a(b)(12) may be made from this system to "consumer reporting agencies" as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)). The purpose of this disclosure is to aid in the collection of outstanding debts owed to the Federal government, typically to provide an incentive for debtors to repay delinquent Federal government debts by making these debts part of their credit records.

The disclosure is limited to information necessary to establish the identity of the individual, including name, address, and taxpayer identification number (Social Security Number); the amount, status, and history of the claim; and the agency or program under which the claim arose for the sole purpose of allowing the consumer reporting agency to prepare a commercial credit report.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper file folders and electronic storage media.

RETRIEVABILITY:

Retrieved by name, Taxpayer Identification Number, other identification number or system identifier, or name of accountable disbursing office in whose custody the public funds were entrusted when the debt arose.

SAFEGUARDS:

Records are maintained in a controlled facility. Physical entry is restricted by the use of locks, guards, and is accessible only to authorized personnel. Access to records is limited to person(s) responsible for servicing the record in performance of their official duties and who are properly screened and cleared for need-to-know. Access to computerized data is restricted by

passwords, which are changed periodically.

RETENTION AND DISPOSAL:

All cases will remain active until settled by full payment, waiver, write-off, or close out. The system contains records requiring a retention period of up to 10 years after final action. Records are retired to National Records Centers. Destruction is accomplished by tearing, shredding, pulping, macerating, or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Debt Management Systems Division, Directorate of Debt and Claims Management, Defense Finance and Accounting Service, Indianapolis, 8899 E. 56th Street, Indianapolis, IN 46249-2700.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the Defense Finance and Accounting Service—Indianapolis, DFAS-HAC/IN, 8899 E. 56th Street, Indianapolis, IN 46249-0150.

The individuals should furnish their name, Social Security Number, telephone number, and reasonably describe the information they are seeking.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system of records should address written inquiries to the Defense Finance and Accounting Service—Indianapolis, DFAS-HAC/IN, 8899 E. 56th Street, Indianapolis, IN 46249-0150.

The individuals should furnish their name, Social Security Numbers, and reasonably describe the information they are seeking.

CONTESTING RECORD PROCEDURES:

The DFAS rules for accessing records, for contesting contents and appealing initial agency determinations are published in DFAS Regulation 5400.11-R; 32 CFR part 324; or may be obtained from the Freedom of Information/Privacy Act Program Manager, at Corporate Communications and Legislative Liaison, 8899 E. 56th Street, Indianapolis, IN 46249-0150.

RECORD SOURCE CATEGORIES:

Records are obtained from the debtor, DFAS centers, other DoD organizations, and agencies of Federal state, and local governments, as applicable or appropriate for processing the case.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. E9-3509 Filed 2-18-09; 8:45 am]

BILLING CODE 5001-06-P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DOD-2009-OS-0022]

Privacy Act of 1974; Systems of Records

AGENCY: Defense Finance and Accounting Service, DoD.

ACTION: Notice to alter an existing system of records.

SUMMARY: The Defense Finance and Accounting Service (DFAS) is proposing to alter a system of records notice subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended.

DATES: This Action will be effective without further notice on March 23, 2009 unless comments are received that would result in a contrary determination.

ADDRESSES: Send comments to the FOIA/PA Program Manager, Corporate Communications and Legislative Liaison, Defense Finance and Accounting Service, 8899 E. 56th St., Indianapolis, IN 46249-0150.

FOR FURTHER INFORMATION CONTACT: Ms. Linda Krabbenhoft at (303) 589-3510.

SUPPLEMENTARY INFORMATION: The Defense Finance and Accounting Service systems of records notices subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The proposed system report, as required by 5 U.S.C. 552a(r) of the Privacy Act of 1974, as amended, was submitted on February 11, 2009, to the House Committee on Government Reform, the Senate Committee on Homeland Security and Governmental Affairs, and the Office of Management and Budget (OMB) pursuant to paragraph 4c of Appendix I to OMB Circular No. A-130, "Federal Agency Responsibilities for Maintaining Records About Individuals," dated December 12, 2000, 65 FR 239.

Dated: February 12, 2009.

Morgan E. Frazier,

*Alternate OSD Federal Register Liaison
Officer, Department of Defense.*

T1300

SYSTEM NAME:

Disbursing Officer Establishment and Appointment Files (August 24, 2005, 70 FR 49586).

CHANGES:

* * * * *

SYSTEM LOCATION:

Delete entry and replace with "Defense Finance and Accounting Service—Cleveland, 1240 East 9th Street, Cleveland, OH 44199-2055.

Defense Finance and Accounting Service—Indianapolis, 8899 East 56th Street, Indianapolis, IN 46249-0001.

Defense Finance and Accounting Service, Columbus, 3990 East Broad Street, Building #21, Columbus, OH 43213-1152."

* * * * *

CATEGORIES OF RECORDS IN THE SYSTEM:

Delete entry and replace with "Full name, Social Security Number (SSN), telephone number, forms for designation and appointment of deputy and disbursing officer, letters to Federal Reserve banks, and requests for approval and appointment of accountable officers; appointment letters; commencement of disbursing duty letters; Financial Management Service Forms, Specimen Signatures and Signature Card."

* * * * *

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Delete and replace with "Department of Defense Financial Management Regulation (DoDFMR) 7000.14-R, Vol. 5, 31 U.S.C. 3321 and E.O. 9397 (SSN)."

* * * * *

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Add "To the United States Treasury to verify authority of the accountable individual to issue Treasury checks and validate the signature of the Disbursing Officer."

* * * * *

STORAGE:

Delete entry and replace with "Maintained in file folders and on electronic storage media."

* * * * *

SAFEGUARDS:

Delete entry and replace with "Records are maintained in a controlled

facility. Physical entry is restricted by the use of locks, guards, and is accessible only to authorized personnel. Access to records is limited to person(s) responsible for servicing the record in performance of their official duties and who are properly screened and cleared for need-to-know. Access to computerized data is restricted by passwords, which are changed periodically."

RETENTION AND DISPOSAL:

Delete entry and replace with "Cut-off at the end of Fiscal Year in which order is revoked or cancelled or when action has been taken to correct discrepancies. Destroy 6 years after cutoff. The records are destroyed by shredding, pulping, burning or degaussing."

SYSTEM MANAGER(S) AND ADDRESS:

Delete entry and replace with "Director of Network Operations, Defense Finance and Accounting Service—Cleveland, 1240 East 9th Street, Cleveland, OH 44199-2055.

Director of Network Operations, Defense Finance and Accounting Service—Indianapolis, 8899 East 56th Street, Indianapolis, IN 46249-0001.

Defense Finance Accounting Service, 3990 East Broad Street, Building #21, Columbus, OH 43213-1152."

NOTIFICATION PROCEDURE:

Delete entry and replace with "Individuals seeking to determine whether information about themselves is contained in this system of records should address written inquiries to the Defense Finance and Accounting Service, Freedom of Information/Privacy Act Program Manager, Corporate Communications and Legislative Liaison, 8899 E. 56th Street, Indianapolis, IN 46249-0150.

Individuals should provide sufficient proof of identity, such as full name, Social Security Number (SSN), telephone number and other information verifiable from the record itself."

RECORDS ACCESS PROCEDURES:

Delete entry and replace with "Individuals seeking to determine whether information about themselves is contained in this system of records should address written inquiries to the Defense Finance and Accounting Service, Freedom of Information/Privacy Act Program Manager, Corporate Communications and Legislative Liaison, 8899 E. 56th Street, Indianapolis, IN 46249-0150.

Individuals should provide sufficient proof of identity, such as full name, Social Security Number (SSN),

telephone number and other information verifiable from the record itself."

CONTESTING RECORD PROCEDURES:

Delete entry and replace with "The DFAS rules for accessing records, for contesting contents and appealing initial agency determinations are published in DFAS Regulation 5400.11-R; 32 CFR part 324; or may be obtained from the Freedom of Information/Privacy Act Program Manager, Corporate Communications and Legislative Liaison, 8899 E. 56th Street, Indianapolis, IN 46249-1050."

RECORD SOURCE CATEGORIES:

Delete entry and replace with "The individual concerned."

* * * * *

T1300

SYSTEM NAME:

Disbursing Officer Establishment and Appointment Files.

SYSTEM LOCATION:

Defense Finance and Accounting Service—Cleveland, 1240 East 9th Street, Cleveland, OH 44199-2055.

Defense Finance and Accounting Service—Indianapolis, 8899 East 56th Street, Indianapolis, IN 46249-0001.

Defense Finance and Accounting Service, Columbus, 3990 East Broad Street, Building #21, Columbus, OH 43213-1152.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Military members and DoD civilians who are appointed as deputies and individuals appointed as accountable disbursing officers.

CATEGORIES OF RECORDS IN THE SYSTEM:

Full name, Social Security Number (SSN), telephone number, forms for designation and appointment of deputy and disbursing officer, letters to Federal Reserve banks, and requests for approval and appointment of accountable officers; appointment letters; commencement of disbursing duty letters; Financial Management Service Forms, Specimen Signatures and Signature Card.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, Departmental Regulations; DoD 7000.14-R, DoD Financial Management Regulation; DFAS 005, Delegation of Statutory Authority and E.O. 9397 (SSN).

PURPOSE(S):

Information is used to determine whether an individual has held an accountable position in the past. To

obtain data for the appointment or termination of deputies and the appointment or termination of other than finance officers as accountable officers.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

To Federal Reserve banks to verify authority of the accountable individual to issue Treasury checks.

To the United States Treasury to verify authority of the accountable individual to issue Treasury checks and validate the signature of the Disbursing Officer.

The DoD "Blanket Routine Uses" published at the beginning of the DFAS compilation of systems of records notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders and on electronic storage media.

RETRIEVABILITY:

By individual's name, Social Security Number and accounting and disbursing station number.

SAFEGUARDS:

Records are maintained in a controlled facility. Physical entry is restricted by the use of locks, guards, and is accessible only to authorized personnel. Access to records is limited to person(s) responsible for servicing the record in performance of their official duties and who are properly screened and cleared for need-to-know. Access to computerized data is restricted by passwords, which are changed periodically.

RETENTION AND DISPOSAL:

Cut-off at the end of Fiscal Year in which order is revoked or cancelled or when action has been taken to correct discrepancies. Destroy 6 years after cutoff. The records are destroyed by shredding, pulping, burning or degaussing.

SYSTEM MANAGER(S) AND ADDRESS:

Director of Network Operations,
Defense Finance and Accounting
Service—Cleveland, 1240 East 9th
Street, Cleveland, OH 44199-2055.

Director of Network Operations,
Defense Finance and Accounting

Service—Indianapolis, 8899 East 56th
Street, Indianapolis, IN 46249-0001.

Defense Finance Accounting Service,
3990 East Broad Street, Building #21,
Columbus, OH 43213-1152.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system of records should address written inquiries to the Defense Finance and Accounting Service, Freedom of Information/Privacy Act Program Manager, Corporate Communications and Legislative Liaison, 8899 E. 56th Street, Indianapolis, IN 46249-0150.

Individuals should provide sufficient proof of identity, such as full name, Social Security Number (SSN), telephone number and other information verifiable from the record itself.

RECORD ACCESS PROCEDURE:

Individuals seeking access to information about themselves contained in this system of records should address written inquiries to the Defense Finance and Accounting Service, Freedom of Information/Privacy Act Program Manager, Corporate Communications and Legislative Liaison, 8899 E. 56th Street, Indianapolis, IN 46249-0150.

Individuals should provide sufficient proof of identity, such as full name, Social Security Number (SSN), telephone number and other information verifiable from the record itself.

CONTESTING RECORD PROCEDURES:

The DFAS rules for accessing records, for contesting contents and appealing initial agency determinations are published in DFAS Regulation 5400.11-R; 32 CFR part 324; or may be obtained from the Freedom of Information/Privacy Act Program Manager, Corporate Communications and Legislative Liaison, 8899 E. 56th Street, Indianapolis, IN 46249-1050.

RECORD SOURCE CATEGORIES:

The individual concerned.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. E9-3511 Filed 2-18-09; 8:45 am]

BILLING CODE 5001-06-P

DEPARTMENT OF DEFENSE

Department of the Army

[Docket ID USA-2009-0003]

Privacy Act of 1974; System of Records

AGENCY: Department of the Army, DoD.

ACTION: Notice to alter a system of records.

SUMMARY: The Department of the Army is proposing to alter a system of records in its existing inventory of records systems subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended.

DATES: The proposed action will be effective on March 23, 2009 unless comments are received that would result in a contrary determination.

ADDRESSES: Department of the Army, Privacy Office, U.S. Army Records Management and Declassification Agency, 7701 Telegraph Road, Casey Building, Suite 144, Alexandria, VA 22325-3905.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Dickerson, (703) 428-6513.

SUPPLEMENTARY INFORMATION: The Department of the Army systems of records notices subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The proposed system report, as required by 5 U.S.C. 552a(r) of the Privacy Act of 1974, as amended, was submitted on February 11, 2009, to the House Committee on Oversight and Government Reform, the Senate Committee on Homeland Security and Governmental Affairs, and the Office of Management and Budget (OMB) pursuant to paragraph 4c of Appendix I to OMB Circular No. A-130, "Federal Agency Responsibilities for Maintaining Records About Individuals," dated February 8, 1996 (February 20, 1996, 61 FR 6427).

Dated: February 12, 2009.

Morgan E. Frazier,

*Alternate OSD Federal Register Liaison
Officer, Department of Defense.*

A0025-2 SAIS DoD

SYSTEM NAME:

Defense Biometric Services (October 15, 2008, 73 FR 61093).

CHANGES:

* * * * *

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Delete entry and replace with "Individuals covered include, but are

not limited to, members of the U.S. Armed Forces, DoD civilian and contractor personnel, military reserve personnel, Army and Air National Guard personnel, foreign national partners, and other individuals (who are U.S. citizens or aliens lawfully admitted for permanent residence) requiring or requesting employment by DoD and/or access to DoD or DoD controlled information systems and/or DoD or DoD contractor operated or controlled installations and facilities.”

CATEGORIES OF RECORDS IN THE SYSTEM:

Delete entry and replace with “Biometrics images; biometric templates; supporting documents; identifying biographic information including, but not limited to, name, Social Security Number (SSN), date of birth, place of birth, height, weight, eye color, hair color, race, globally unique identifier, organization, telephone number, office symbol, clearance, gender, and similar relevant information; and information from and electronic images of international, federal, tribal, or state issued individual identity documents.”

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Delete entry and replace with “10 U.S.C. 113, Secretary of Defense; 10 U.S.C. 3013, Secretary of the Army; 10 U.S.C. 5013, Secretary of the Navy; 10 U.S.C. 8013, Secretary of the Air Force; E.O. 12333, United States Intelligence Activities; E.O. 13467, Reforming Processes Related to Suitability for Government Employment, Fitness for Contractor Employees, and Eligibility for Access to Classified National Security Information; National Defense Authorization Act of 2008, Section 1069; DoDD 8521.01E, Department of Defense Biometrics; DoDD 8500.1, Information Assurance; AR 25–2, Information Assurance and E.O. 9397 (SSN).”

* * * * *

RETRIEVABILITY:

Delete entry and replace with “Name, Social Security Number (SSN), biometric template, fingerprints, face, iris, DNA and other biometric data.”

* * * * *

RETENTION AND DISPOSAL:

Delete entry and replace with “Data is destroyed when superseded or when no longer needed for operational purposes, whichever is later by shredding, pulping, degaussing or erasing.”

SYSTEM MANAGER(S) AND ADDRESS:

Delete entry and replace with “Director, Biometrics Task Force, 1901

South Bell Street, Suite 900, Arlington, Virginia 22202–4512.”

NOTIFICATION PROCEDURE:

Delete entry and replace with “Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to Director, Biometrics Task Force, 1901 South Bell Street, Suite 900, Arlington, Virginia 22202–4512.

For verification purposes, individual should provide full name, Social Security Number (SSN), sufficient details to permit locating pertinent records and signature.”

RECORD ACCESS PROCEDURES:

Delete entry and replace with “Individuals seeking access to information about themselves contained in this system should address written inquiries to Director, Biometrics Task Force, 1901 South Bell Street, Suite 900, Arlington, Virginia 22202–4512.

For verification purposes, individual should provide full name, Social Security Number (SSN), sufficient details to permit locating pertinent records and signature.”

* * * * *

A0025–2 SAIS DoD

SYSTEM NAME:

Defense Biometric Services.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals covered include, but are not limited to, members of the U.S. Armed Forces, DoD civilian and contractor personnel, military reserve personnel, Army and Air National Guard personnel, foreign national partners, and other individuals (who are U.S. citizens or aliens lawfully admitted for permanent residence) requiring or requesting employment by DoD and/or access to DoD or DoD controlled information systems and/or DoD or DoD contractor operated or controlled installations and facilities.

CATEGORIES OF RECORDS IN THE SYSTEM:

Biometrics images; biometric templates; supporting documents; identifying biographic information including, but not limited to, name, Social Security Number (SSN), date of birth, place of birth, height, weight, eye color, hair color, race, globally unique identifier, organization, telephone number, office symbol, clearance, gender, and similar relevant information; and information from and electronic images of international, federal, tribal, or state issued individual identity documents.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 113, Secretary of Defense; 10 U.S.C. 3013, Secretary of the Army; 10 U.S.C. 5013, Secretary of the Navy; 10 U.S.C. 8013, Secretary of the Air Force; E.O. 12333, United States Intelligence Activities; E.O. 13467, Reforming Processes Related to Suitability for Government Employment, Fitness for Contractor Employees, and Eligibility for Access to Classified National Security Information; National Defense Authorization Act of 2008, Section 1069; DoDD 8521.01E, Department of Defense Biometrics; DoDD 8500.1, Information Assurance; AR 25–2, Information Assurance and E.O. 9397 (SSN).

PURPOSE(S):

To control logical and physical access to Department of Defense (DoD) and DoD controlled information systems and DoD or DoD contractor operated or controlled installations and facilities and to support the DoD physical and logical security, force protection, identity management, personnel recovery, and information assurance programs, by identifying an individual or verifying/authenticating the identity of an individual through the use of biometrics (i.e., measurable physiological or behavioral characteristics) for purposes of protecting U.S./Coalition/allied government and/or U.S./Coalition/allied national security areas of responsibility and information.

Information assurance purposes include the administration of passwords and identification numbers for operators/users of data in automated media; identifying data processing and communication customers authorized access to or disclosure from data residing in information processing and/or communication activities; and determining the propriety of individual access into the physical data residing in automated media.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

To Federal, State, tribal, local, or foreign agencies, for the purposes of law enforcement, counterterrorism, immigration management and control, and homeland security as authorized by U.S. Law or Executive Order, or for the

purpose of protecting the territory, people, and interests of the United States of America against breaches of security related to DoD controlled information or facilities, and against terrorist activities.

The DoD "Blanket Routine Uses" set forth at the beginning of the Army's compilation of systems of records notices also apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders and electronic storage media.

RETRIEVABILITY:

Name, Social Security Number (SSN), biometric template, fingerprints, face, iris, DNA and other biometric data.

SAFEGUARDS:

Computerized records maintained in a controlled area are accessible only to authorized personnel. Records are maintained in a controlled facility. Physical entry is restricted by the use of locks, guards, and is accessible only to authorized personnel. Physical and electronic access is restricted to designated individuals having a need therefore in the performance of official duties and who are properly screened and cleared for need-to-know.

RETENTION AND DISPOSAL:

Data is destroyed when superseded or when no longer needed for operational purposes, whichever is later by shredding, pulping, degaussing or erasing.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Biometrics Task Force, 1901 South Bell Street, Suite 900, Arlington, Virginia 22202-4512.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to Director, Biometrics Task Force, 1901 South Bell Street, Suite 900, Arlington, Virginia 22202-4512.

For verification purposes, individual should provide full name, Social Security Number (SSN), sufficient details to permit locating pertinent records and signature.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system should address written inquiries to Director, Biometrics Task Force, 1901 South Bell Street, Suite 900, Arlington, Virginia 22202-4512.

For verification purposes, individual should provide full name, Social Security Number (SSN), sufficient details to permit locating pertinent records and signature.

CONTESTING RECORD PROCEDURES:

The Army's rules for accessing records, and for contesting contents and appealing initial agency determinations are contained in Army Regulation 340-21; 32 CFR part 505; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

From the individual, DoD security offices, system managers, computer facility managers, automated interfaces for user codes on file at Department of Defense sites.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. E9-3513 Filed 2-18-09; 8:45 am]

BILLING CODE 5001-06-P

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

Suspension of the Price Evaluation Adjustment for Small Disadvantaged Businesses

AGENCY: Defense Acquisition Regulations System, Department of Defense (DoD).

ACTION: Notice of 1-year suspension of the price evaluation adjustment for small disadvantaged businesses.

SUMMARY: The Director of Defense Procurement has suspended the use of the price evaluation adjustment, as required by 10 U.S.C. 2323(e)(3)(B), because DoD exceeded its 5 percent goal described in 10 U.S.C. 2323(a) in fiscal year 2008. The suspension will be in effect for 1 year and will be reevaluated in fiscal year 2009 based on the level of DoD contract awards established in 10 U.S.C. 2323(a).

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

Applicability Date: This suspension applies to all solicitations issued during the period from March 13, 2009, to March 12, 2010.

FOR FURTHER INFORMATION CONTACT: Ms. Susan Pollack, Defense Procurement, OUSD(AT&L)/DPAP, 3015 Defense Pentagon, Washington, DC 20301-3015, telephone 703-697-8336; facsimile 703-614-1254.

SUPPLEMENTARY INFORMATION: Pursuant to the authority granted in 10 U.S.C. 2323(e), DoD has previously applied a 10 percent price evaluation adjustment

for small disadvantaged businesses in certain acquisitions. This price evaluation adjustment is implemented in Subpart 19.11 of the Federal Acquisition Regulation. Section 801 of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Pub. L. 105-261) amended 10 U.S.C. 2323(e)(3) to prohibit DoD from applying such a price evaluation adjustment for a 1-year period following a fiscal year in which DoD achieved the 5 percent goal for contract awards established in 10 U.S.C. 2323(a). Since, in fiscal year 2008, DoD exceeded this 5 percent goal, use of the price evaluation adjustment in DoD acquisitions must be suspended for a 1-year period, from March 13, 2009, to March 12, 2010.

Michele P. Peterson,

Editor, Defense Acquisition Regulations System.

[FR Doc. E9-3518 Filed 2-18-09; 8:45 am]

BILLING CODE 5001-08-P

DEPARTMENT OF DEFENSE

Department of the Navy

[Docket ID: USN-2009-0003]

Privacy Act of 1974; System of Records

AGENCY: Department of the Navy, DoD.

ACTION: Notice to alter a system of records.

SUMMARY: The Department of the Navy proposes to alter a system of records notice in its existing inventory of records systems subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended.

DATES: This proposed action will be effective without further notice on March 23, 2009 unless comments are received which result in a contrary determination.

ADDRESSES: Send comments to the Department of the Navy, PA/FOIA Policy Branch, Head of Naval Operations (DNS-36), 2000 Navy Pentagon, Washington, DC 20350-2000.

FOR FURTHER INFORMATION CONTACT: Ms. Miriam Brown-Lam, (202) 685-6545.

SUPPLEMENTARY INFORMATION: The Department of the Navy's systems of records notices subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The proposed system reports, as required by 5 U.S.C. 552a(r), of the Privacy Act of 1974, as amended, were

submitted on February 11, 2009, to the House Committee on Oversight and Government Reform, the Senate Committee on Homeland Security and Governmental Affairs, and the Office of Management and Budget (OMB) pursuant to paragraph 4c of Appendix I to OMB Circular No. A-130, 'Federal Agency Responsibilities for Maintaining Records About Individuals,' dated February 8, 1996 (February 20, 1996, 61 FR 6427).

Dated: February 12, 2009.

Morgan E. Frazier,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

NM01500-2

SYSTEM NAME:

Department of the Navy (DON) Education and Training Records (November 22, 2005, 70 FR 70594).

CHANGES:

* * * * *

SYSTEM LOCATION:

Delete entry and replace with "Student records are located at schools and other training activities or elements of the Department of the Navy, to include the U.S. Navy and the U.S. Marine Corps. Official mailing addresses are published as an appendix to the Navy's compilation of systems of records notices.

Sailor/Marine American Council on Education Registry Transcript (SMART) database is maintained at the Naval Educational and Training Professional Development Technology Center, Code N6, 6490 Saufley Field Road, Pensacola, FL 32509-5237.

Vertical Launch System (VLS) records are maintained at the Naval Surface Warfare Center, Port Hueneme Division, Missile/Launcher Department, Launcher Systems Division (4W20), 4363 Missile Way, Port Hueneme, CA 93043-4307.

Student and individual Marine training and education records are maintained in the Training and Education Command (TECOM) Integrated Management System (TIMS) database located at the USMC (TECOM), 3300 Russell Road, Quantico VA 22134-5001.

The Corporate enterprise Training Activity Resource System (CeTARS) is maintained at the Naval Education Training Professional Development Technology Center (NETPDTC), 6490 Saufley Field Road, Pensacola, FL 32509-5235."

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Delete entry and replace with "Student records cover present, former

and prospective students at Navy and Marine Corps schools and other training activities or associated educational institution of Navy sponsored programs; instructors, staff and support personnel; participants associated with activities of the Naval Education and Training Command, including the Navy College Office and other training programs; tutorial and tutorial volunteer programs; dependents' schooling.

SMART records cover Active duty Navy and Marine Corps members, reservists, and separated or retired Navy and Marine Corps members.

VLS records cover civilians, active duty Navy members and Department of the Navy contractors.

TIMS records include the student records for Marines and other service students attending Marine schools, Marines students attending other service's schools, Marine's classes/courses from educational institutions, and the record of each Marines' training and education in an individual electronic training jacket for active and reserve Marine Corps personnel.

CeTARS records include those of former, present, and prospective military service members, foreign nationals, DoD civilians and contractor personnel."

CATEGORIES OF RECORDS IN THE SYSTEM:

Delete entry and replace with "Student records: Schools and personnel training programs administration and evaluation records. Such records as basic identification records i.e., Social Security Number, name, gender, date of birth, personnel records i.e., rank/rate/grade, branch of service, billet, expiration of active obligated service, professional records i.e., Navy enlisted classification, military occupational specialty for Marines, subspecialty codes, test scores, psychological profile, basic test battery scores, and Navy advancement test scores. Educational records i.e., education levels, service and civilian schools attended, degrees, majors, personnel assignment data, course achievement data, class grades, class standing, and attrition categories. Academic/training records, manual and mechanized, and other records of educational and professional accomplishment.

SMART records: Certified to be true copies of service record page 4; certificates of completion; college transcripts; test score completions; grade reports; Request for Sailor/Marine American Council on Education Registry Transcript.

VLS records: Name, quiz scores, homework scores, and test scores. In

those instances when the student has performed below the minimum requirements, copies of the minutes of the Academic Review Board will be included.

TIMS records: Includes student records data as shown above, the individual record of "all things training and education" for each Marine in a individual Electronic Training Jacket, the assignment to "promotion points" for specific completed training course and identifies the skills, proficiencies and courses/classes for current and higher Military Occupational Specialty (MOS) requirements.

CeTARS records: Contains personnel records for students, instructors and administrative staff members. The data in these personnel records consists of: (1) Basic identification records i.e., Social Security Number, name, sex, date of birth (2) personnel records i.e., rank/rate/grade, branch of service, billet, expiration of active obligated service (3) professional records i.e., Navy enlisted classification, MOS for Marines, subspecialty codes, test scores, psychological profile, basic test battery scores, and Navy advancement test scores (4) Educational records i.e., education levels, service and civilian schools attended, degrees, majors, personnel assignment data, course achievement data, class grades, class standing, and attrition categories (5) Academic/training records, manual and mechanized, and other records of educational and professional accomplishment."

PURPOSE(S):

Delete entry and replace with "Student records: To record course and training demands, requirements, and achievements; analyze student groups or courses; provide academic and performance evaluation in response to official inquiries; provide guidance and counseling to students; prepare required reports; and for other training administration and planning purposes.

SMART records: To provide recommended college credit based on military experience and training to colleges and universities for review and acceptance. Requesters may have information mailed to them or the college(s)/university(ies) of their choice.

VLS records: To record course and training demands, requirements, and achievements; analyze student groups or courses; provide academic and performance evaluation in response to official inquiries; and provide guidance and counseling to students.

TIMS records: To provide a database of student records for students attending Marine schools and courses, for Marines

attending other service's schools, Marines attending/completing educational institution courses/classes, and to provide an individual record of "all things training and education" for Marine active duty and reserve personnel. Provides the individual Electronic Training Jacket that can be accessed against the unit morning report allowing evaluation against the MOS Roadmap for individual training assessment and requirements. At the unit level, allowing the evaluation of the assigned personnel training assessment against the Marine Corps Training and Readiness Manuals for automated Unit Training Management support, automated unit training readiness assessment, and the determination of unit combat readiness percentage.

CeTARS records: Facilitates the collection, storage, modification, and retrieval of training information about the students attending Navy courses, as well as course-related data and quota data for planning/execution of Navy training."

* * * * *

STORAGE:

Delete entry and replace with "Paper records and electronic storage media."

RETRIEVABILITY:

Delete entry and replace with "By name, Social Security Number (SSN), and/or date of birth."

SAFEGUARDS:

Delete entry and replace with "Full nine-digit SSNs are transformed to show only the last four digits on the input screens. All output products have been similarly modified showing only the last four digits of the SSN. Physical access to the central computer operations area is provided on a need-to-know basis and to CAC card authorized, authenticated personnel only. Records are maintained in controlled access rooms or areas. Data is limited to personnel training information. Physical access to computer workstations areas is also strictly controlled. Each Information System Security Officer (ISSO) exercises direct authority over workstation area access and physical control of Information System (IS) equipment and the data produced within their area of responsibility. Terminal identification is positive and maintained by control points. Physical access to terminals is restricted to specifically authorized individuals. Password authorization, assignment and monitoring are the responsibility of the functional manager."

RETENTION AND DISPOSAL:

Delete entry and replace with "Student records: Destroyed after completion of training, transfer, or discharge, provided the data has been recorded in the individual's service record or on the student's record card.

SMART records: Automated SMART (transcripts) are retained permanently. Documents submitted to compile, update, or correct SMART records, which include service record page 4s, transcripts, and certificates, are destroyed after 3 years.

VLS records: Destroyed 2 years after completion of training.

TIMS records: Automated TIMS records are retained permanently. The records are utilized for near term and historical assessments including training schools/courses, recruit selection criteria, training requirements, individual course completion, school training through-put, and student attrition.

CeTARS records: Permanent."

SYSTEM MANAGER(S) AND ADDRESS:

Delete entry and replace with "Student records: The commanding officer of the activity in question. Official mailing addresses are published as an appendix to the Navy's compilation of systems of records notices.

SMART records: Director, Navy College Center (N2A5), 6490 Saufley Field Road, Pensacola, FL 32509-5204.

VLS records: Department Manager, Naval Surface Warfare Center, Port Hueneme Division, Missile/Launcher Department, Launcher Systems Division, 4363 Missile Way, Port Hueneme, CA 93043-4307.

TIMS records: Commanding General, Training and Education Command, Attn: TIMS Program Manager, 3300 Russell Road, Quantico, VA 22134-5001.

CeTARS records: Commander, Naval Education and Training Professional Development and Technology Center (NETPDTC), Attn: CeTARS Program Director (Code N621), 6490 Saufley Field Road, Pensacola, FL 32509-5235."

NOTIFICATION PROCEDURE:

Delete entry and replace with "Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the appropriate official below:

Student records: Address written inquiries to the commanding officer of the activity in question. Official mailing addresses are published as an appendix to the Navy's compilation of systems of records notices.

Requester should provide full name, Social Security Number (SSN), military or civilian duty status, if applicable, and other data when appropriate, such as graduation date.

SMART records: Address written inquiries to the Director, Navy College Center (N2A5), 6490 Saufley Field Road, Pensacola, FL 32509-5204.

Send a completed "Request for Sailor/Marine American Council on Education Registry Transcript" which solicits full name, command address, current rate/rank, Social Security Number, home and work telephone numbers, current status branch of service, etc., and must be signed.

VLS records: Address written inquiries to the Department Manager, Naval Surface Warfare Center, Port Hueneme Division, Missile/Launcher Department, Launcher Systems Division (4W20), 4363 Missile Way, Port Hueneme, CA 93043-4307.

Requester should provide full name, Social Security Number (SSN), military, civilian, or contractor duty status, if applicable, and other data when appropriate, such as graduation date.

TIMS records: Address written inquiries to the Commanding General, Training and Education Command, Attn: TIMS Program Manager, 3300 Russell Road, Quantico, VA 22134-5001.

Requester should provide a signed request that includes their full name, Social Security Number (SSN), military, civilian, or contractor duty status, if applicable, and other data when appropriate, such as graduation date.

CeTARS records: Address written inquiries to Commander, Naval Education and Training Professional Development and Technology Center (NETPDTC), Attn: CeTARS Program Director (Code N621), 6490 Saufley Field Road, Pensacola, FL 32509-5235.

Requester should provide full name, address, Social Security Number (SSN) and be signed."

RECORD ACCESS PROCEDURES:

Delete entry and replace with "Individuals seeking to access information about themselves contained in this system should address written inquiries to the appropriate official below:

Student records: Address written inquiries to the commanding officer of the activity in question. Official mailing addresses are published as an appendix to the Navy's compilation of systems of records notices.

Requester should provide his full name, Social Security Number (SSN), military or civilian duty status, if

applicable, and other data when appropriate, such as graduation date.

SMART records: Address written inquiries to the Director, Navy College Center (N2A5), 6490 Saufley Field Road, Pensacola, FL 32509-5204.

Send a completed "Request for Sailor/Marine American Council on Education Registry Transcript" which solicits full name, command address, current rate/rank, Social Security Number, home and work telephone numbers, current status branch of service, etc., and must be signed.

VLS records: Address written inquiries to the Department Manager, Naval Surface Warfare Center, Port Hueneme Division, Missile/Launcher Department, Launcher Systems Division (4W20), 4363 Missile Way, Port Hueneme, CA 93043-4307.

Requester should provide full name, Social Security Number (SSN), military, civilian or contractor duty status, if applicable, and other data when appropriate, such as graduation date.

TIMS records: Address written inquiries to the Commanding General, Training and Education Command, Attn: TIMS Program Manager, 3300 Russell Road, Quantico, VA 22134-5001.

Requester should provide a signed request that includes their full name, Social Security Number (SSN), military, civilian, or contractor duty status, if applicable, and other data when appropriate, such as graduation date.

CeTARS records: Address written inquiries to the Commander, Naval Education and Training Professional Development and Technology Center (NETPDTC), Attn: CeTARS Program Director (Code N621), 6490 Saufley Field Road, Pensacola, FL 32509-5235.

Requester should provide full name, current rate/rank, Social Security Number (SSN), status, branch of service, and must be signed."

RECORD SOURCE CATEGORIES:

Delete entry and replace with "Individual; schools and educational institutions; and instructor personnel; Navy Personnel Command (NPC), Naval Education and Training Command (NETC), Navy Recruiting Command (NRC), USMC Training and Education Command (TECOM); Joint Primary Aircraft Training System (JPATS), Chief of Naval Air Training (CNATRA), Naval Special Warfare Center; or from various other Privacy Act systems."

* * * * *

NM01500-2

SYSTEM NAME:

Department of the Navy (DON) Education and Training Records.

SYSTEM LOCATION:

Student records are located at schools and other training activities or elements of the Department of the Navy, to include the U.S. Navy and the U.S. Marine Corps. Official mailing addresses are published as an appendix to the Navy's compilation of systems of records notices.

Sailor/Marine American Council on Education Registry Transcript (SMART) database is maintained at the Naval Educational and Training Professional Development Technology Center, Code N6, 6490 Saufley Field Road, Pensacola, FL 32509-5237.

Vertical Launch System (VLS) records are maintained at the Naval Surface Warfare Center, Port Hueneme Division, Missile/Launcher Department, Launcher Systems Division (4W20), 4363 Missile Way, Port Hueneme, CA 93043-4307.

Student and individual Marine training and education records are maintained in the Training and Education Command (TECOM) Integrated Management System (TIMS) database located at the USMC (TECOM), 3300 Russell Road, Quantico VA 22134-5001.

The Corporate enterprise Training Activity Resource System (CeTARS) is maintained at the Naval Education Training Professional Development Technology Center (NETPDTC), 6490 Saufley Field Road, Pensacola, FL 32509-5235.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Student records cover present, former, and prospective students at Navy and Marine Corps schools and other training activities or associated educational institution of Navy sponsored programs; instructors, staff and support personnel; participants associated with activities of the Naval Education and Training Command, including the Navy College Office and other training programs; tutorial and tutorial volunteer programs; dependents' schooling.

SMART records cover Active duty Navy and Marine Corps members, reservists, and separated or retired Navy and Marine Corps members.

VLS records cover civilians, active duty Navy members, and Department of the Navy contractors.

TIMS records include the student records for Marines and other service students attending Marine schools, Marines students attending other service's schools, Marine's classes/ courses from educational institutions, and the record of each Marines' training and education in an individual electronic training jacket for active and reserve Marine Corps personnel.

CeTARS records include those of former, present and prospective military service members, foreign nationals, DoD civilians and contractor personnel.

CATEGORIES OF RECORDS IN THE SYSTEM:

Student records: Schools and personnel training programs administration and evaluation records. Such records as basic identification records i.e., Social Security Number, name, sex, date of birth, personnel records i.e., rank/rate/grade, branch of service, billet, expiration of active obligated service, professional records i.e., Navy enlisted classification, military occupational specialty for Marines, subspecialty codes, test scores, psychological profile, basic test battery scores, and Navy advancement test scores. Educational records i.e., education levels, service and civilian schools attended, degrees, majors, personnel assignment data, course achievement data, class grades, class standing, and attrition categories. Academic/training records, manual and mechanized, and other records of educational and professional accomplishment.

SMART records: Certified to be true copies of service record page 4; certificates of completion; college transcripts; test score completions; grade reports; Request for Sailor/Marine American Council on Education Registry Transcript.

VLS records: Name, quiz scores, homework scores, and test scores. In those instances when the student has performed below the minimum requirements, copies of the minutes of the Academic Review Board will be included.

TIMS records: Includes student records data as shown above, the individual record of "all things training and education" for each Marine in a individual Electronic Training Jacket, the assignment to "promotion points" for specific completed training course and identifies the skills, proficiencies and courses/classes for current and higher Military Occupational Specialty (MOS) requirements.

CeTARS records: Contains personnel records for students, instructors and administrative staff members. The data in these personnel records consists of: (1) Basic identification records i.e., Social Security Number, name, sex, date of birth (2) personnel records i.e., rank/rate/grade, branch of service, billet, expiration of active obligated service (3) professional records i.e., Navy enlisted classification, MOS for Marines, subspecialty codes, test scores, psychological profile, basic test battery scores, and Navy advancement test

scores (4) Educational records i.e., education levels, service and civilian schools attended, degrees, majors, personnel assignment data, course achievement data, class grades, class standing, and attrition categories (5) Academic/training records, manual and mechanized, and other records of educational and professional accomplishment.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 5013, Secretary of the Navy; 10 U.S.C. 5041, Headquarters, Marine Corps; and E.O. 9397 (SSN).

PURPOSE(S):

Student records: To record course and training demands, requirements, and achievements; analyze student groups or courses; provide academic and performance evaluation in response to official inquiries; provide guidance and counseling to students; prepare required reports; and for other training administration and planning purposes.

SMART records: To provide recommended college credit based on military experience and training to colleges and universities for review and acceptance. Requesters may have information mailed to them or the college(s)/university(ies) of their choice.

VLS records: To record course and training demands, requirements, and achievements; analyze student groups or courses; provide academic and performance evaluation in response to official inquiries; and provide guidance and counseling to students.

TIMS records: To provide a database of student records for students attending Marine schools and courses, for Marines attending other service's schools, Marines attending/completing educational institution courses/classes, and to provide an individual record of "all things training and education" for Marine active duty and reserve personnel. Provides the individual Electronic Training Jacket that can be accessed against the unit morning report allowing evaluation against the MOS Roadmap for individual training assessment and requirements. At the unit level, allowing the evaluation of the assigned personnel training assessment against the Marine Corps Training and Readiness Manuals for automated Unit Training Management support, automated unit training readiness assessment, and the determination of unit combat readiness percentage.

CeTARS records: Facilitates the collection, storage, modification, and retrieval of training information about the students attending Navy courses, as well as course-related data, and quota

data for planning/execution of Navy training.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows: The DoD 'Blanket Routine Uses' that appear at the beginning of the Navy's compilation of systems of records notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records and electronic storage media.

RETRIEVABILITY:

By name, Social Security Number (SSN) and/or date of birth.

SAFEGUARDS:

Full nine-digit Social Security Number (SSN) are transformed to show only the last four digits on the input screens. All output products have been similarly modified showing only the last four digits of the SSN. Physical access to the central computer operations area is provided on a need-to-know basis and to CAC card authorized, authenticated personnel only. Records are maintained in controlled access rooms or areas. Data is limited to personnel training information. Physical access to computer workstations areas is also strictly controlled. Each Information System Security Officer (ISSO) exercises direct authority over workstation area access and physical control of Information System (IS) equipment and the data produced within their area of responsibility. Terminal identification is positive and maintained by control points. Physical access to terminals is restricted to specifically authorized individuals. Password authorization, assignment and monitoring are the responsibility of the functional manager.

RETENTION AND DISPOSAL:

Student records: Destroyed after completion of training, transfer, or discharge, provided the data has been recorded in the individual's service record or on the student's record card.

SMART records: Automated SMART (transcripts) are retained permanently. Documents submitted to compile, update, or correct SMART records, which include service record page 4s,

transcripts, and certificates, are destroyed after 3 years.

VLS records: Destroyed 2 years after completion of training.

TIMS records: Automated TIMS records are retained permanently. The records are utilized for near term and historical assessments including training schools/courses, recruit selection criteria, training requirements, individual course completion, school training through-put, and student attrition.

CeTARS records: Permanent.

SYSTEM MANAGER(S) AND ADDRESS:

Student records: The commanding officer of the activity in question. Official mailing addresses are published as an appendix to the Navy's compilation of systems of records notices.

SMART records: Director, Navy College Center (N2A5), 6490 Saufley Field Road, Pensacola, FL 32509-5204.

VLS records: Department Manager, Naval Surface Warfare Center, Port Hueneme Division, Missile/Launcher Department, Launcher Systems Division, 4363 Missile Way, Port Hueneme, CA 93043-4307.

TIMS records: Commanding General, Training and Education Command, Attn: TIMS Program Manager, 3300 Russell Road, Quantico, VA 22134-5001.

CeTARS records: Commander, Naval Education and Training Professional Development and Technology Center (NETPDTC), Attn: CeTARS Program Director (Code N621), 6490 Saufley Field Road, Pensacola, FL 32509-5235.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the *appropriate official below*:

Student records: Address written inquiries to the commanding officer of the activity in question. Official mailing addresses are published as an appendix to the Navy's compilation of systems of records notices.

Requester should provide his full name, Social Security Number (SSN), military or civilian duty status, if applicable, and other data when appropriate, such as graduation date.

SMART records: Address written inquiries to the Director, Navy College Center (N2A5), 6490 Saufley Field Road, Pensacola, FL 32509-5204.

Send a completed "Request for Sailor/Marine American Council on Education Registry Transcript" which solicits full name, command address, current rate/rank, Social Security Number, home and

work telephone numbers, current status branch of service, etc., and must be signed.

VLS records: Address written inquiries to the Department Manager, Naval Surface Warfare Center, Port Hueneme Division, Missile/Launcher Department, Launcher Systems Division (4W20), 4363 Missile Way, Port Hueneme, CA 93043-4307.

Requester should provide full name, Social Security Number (SSN), military, civilian, or contractor duty status, if applicable, and other data when appropriate, such as graduation date.

TIMS records: Address written inquiries to the Commanding General, Training and Education Command, Attn: TIMS Program Manager, 3300 Russell Road, Quantico, VA 22134-5001.

Requester should provide a signed request that includes their full name, Social Security Number (SSN), military, civilian, or contractor duty status, if applicable, and other data when appropriate, such as graduation date.

CeTARS records: Address written inquiries to Commander, Naval Education and Training Professional Development and Technology Center (NETPDTC), Attn: CeTARS Program Director (Code N621), 6490 Saufley Field Road, Pensacola, FL 32509-5235.

Requester should provide full name, address, Social Security Number (SSN) and be signed.

RECORD ACCESS PROCEDURES:

Individuals seeking to access information about themselves contained in this system should address written inquiries to the appropriate official below:

Student records: Address written inquiries to the commanding officer of the activity in question. Official mailing addresses are published as an appendix to the Navy's compilation of systems of records notices.

Requester should provide his full name, Social Security Number (SSN), military or civilian duty status, if applicable, and other data when appropriate, such as graduation date.

SMART records: Address written inquiries to the Director, Navy College Center (N2A5), 6490 Saufley Field Road, Pensacola, FL 32509-5204.

Send a completed "Request for Sailor/Marine American Council on Education Registry Transcript" which solicits full name, command address, current rate/rank, Social Security Number, home and work telephone numbers, current status branch of service, etc., and must be signed.

VLS records: Address written inquiries to the Department Manager,

Naval Surface Warfare Center, Port Hueneme Division, Missile/Launcher Department, Launcher Systems Division (4W20), 4363 Missile Way, Port Hueneme, CA 93043-4307.

Requester should provide full name, Social Security Number (SSN), military, civilian or contractor duty status, if applicable, and other data when appropriate, such as graduation date.

TIMS records: Address written inquiries to the Commanding General, Training and Education Command, Attn: TIMS Program Manager, 3300 Russell Road, Quantico, VA 22134-5001.

Requester should provide a signed request that includes their full name, Social Security Number (SSN), military, civilian, or contractor duty status, if applicable, and other data when appropriate, such as graduation date.

CeTARS records: Address written inquiries to the Commander, Naval Education and Training Professional Development and Technology Center (NETPDTC), Attn: CeTARS Program Director (Code N621), 6490 Saufley Field Road, Pensacola, FL 32509-5235.

Requester should provide full name, current rate/rank, Social Security Number (SSN), status, branch of service, and must be signed.

CONTESTING RECORD PROCEDURES:

The Navy's rules for accessing records, and for contesting contents and appealing initial agency determinations are published in Secretary of the Navy Instruction 5211.5; 32 CFR part 701; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Individual; schools and educational institutions; and instructor personnel; Navy Personnel Command (NPC), Naval Education and Training Command (NETC), Navy Recruiting Command (NRC), USMC Training and Education Command (TECOM); Joint Primary Aircraft Training System (JPATS), Chief of Naval Air Training (CNATRA), Naval Special Warfare Center; or from various other Privacy Act systems.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. E9-3508 Filed 2-18-09; 8:45 am]

BILLING CODE 5001-06-P

DEPARTMENT OF EDUCATION

Impact Aid Program; Notice Reopening the Application Deadline Date for Certain Impact Aid Fiscal Year 2010 Section 8002 and Section 8003 Grants

Catalog of Federal Domestic Assistance (CFDA) Number: 84.041.

SUMMARY: The Secretary reopens the application deadline date for the submission of e-Applications for certain Impact Aid fiscal year (FY) 2010 section 8002 and section 8003 grants until February 20, 2009. Impact Aid regulations at 34 CFR 222.3 specify that the annual application deadline is January 31. The Secretary takes this action to allow more time for the preparation and submission of applications only by potential applicants that were adversely affected by severe inclement weather conditions in their areas during the week before the original deadline.

DATES: The new deadline date for affected applicants to submit applications is:

Deadline for Transmittal of Applications: February 20, 2009.

State educational agencies (SEAs) wishing to comment on section 8002 or section 8003 applications filed by affected local educational agencies (LEAs) must do so by March 9, 2009.

Late Applications: The Secretary will accept and approve for payment any otherwise approvable application that is received on or before the 60th calendar day after February 20, which is April 21, 2009; however, any affected applicant submitting an otherwise approvable late application will have its payment reduced in accordance with section 8005(d)(2) of the Elementary and Secondary Education Act of 1965, as amended (ESEA), 20 U.S.C. 7705(d)(2), by 10 percent of the amount it would have received had its application been filed by February 20, 2009.

SUPPLEMENTARY INFORMATION: Under this reopened deadline, we will not accept applications from eligible applicants that submitted their FY 2010 section 8002 and section 8003 applications to the Department before the original deadline date of February 2 (first business day after January 31, 2009), 4:30:00 p.m., Washington, DC time.

If you are an affected section 8002 and section 8003 applicant submitting an application under the reopened deadline announced in this notice, you must provide a brief explanation with your application regarding how weather conditions limited your ability to submit your application by the initial deadline. You should also be prepared

to provide appropriate supporting documentation, if requested.

FOR FURTHER INFORMATION CONTACT:

Marilyn Hall, Impact Aid Program, U.S. Department of Education, 400 Maryland Avenue, SW., Washington, DC 20202-6244. Telephone: (202) 260-3858. If you use a telecommunications device for the deaf (TDD), call the Federal Relay Service (FRS), toll free, at 1-800-877-8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

Submission of Applications Through the e-Grants System

Applications for section 8002 and section 8003 grants must be submitted electronically through the Department's e-Grants system, accessible through the e-Grants portal page at: <http://e-grants.ed.gov>. We will reject your application if you submit it in paper format.

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:

- You must complete the electronic submission of your grant application by 4:30 p.m., Washington, DC time, on the application deadline date. We strongly recommend that you do not wait until the application deadline date to begin the application process.

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

- You must submit all documents, including all necessary assurances and certifications, electronically.

- You must e-mail or fax to the Impact Aid Program office all pages of the application requiring a signature, on or before the third business day following the deadline specified earlier in this section. You must also include your explanation related to weather conditions specified earlier with this same e-mail or fax transmission. An application is timely filed if the Impact Aid Program receives the electronic application on or before 4:30 p.m. on the application deadline date, and the signature pages are received by fax or e-mail on or before the third business day following the application deadline date. The third business day following February 20 is February 25, 2009. If you

choose to fax the signature pages, the Impact Aid Program fax number is 1-866-799-1272. Keep your fax receipt as proof of successful submission. If you choose to scan your signature pages to a PDF document, attach the PDF file to an e-mail message and send it to Impact.Aid@ed.gov. Request a receipt for the e-mail as confirmation of timely submission.

- 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). The Department will send a second notification to you by e-mail after the application is logged into the Impact Aid System. This second notification indicates that the Department has received your e-application and the required signature pages by fax or e-mail.

In addition, you must forward a complete copy of the application to your SEA at the same time you submit it to the U.S. Department of Education. An "SEA Transmittal Form" is included with the application package for this purpose.

Application Deadline Date and Late Payment Deadline Date Extensions in Case of Technical Issues with the e-Grants.ed.gov System:

If you are prevented from electronically submitting your application on the application deadline date (February 20, 2009) or the late payment deadline date (April 21, 2009), because the e-Application system 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—

(1) You are a registered user of e-Application and you have initiated an electronic application for this grant; and

(2)(a) The e-Application system 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 the late payment deadline date; or

(b) The e-Application system is unavailable for any period of time between 3:30 p.m. and 4:30 p.m., Washington, DC time, on the application deadline date or the late payment 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 or (2) the e-Grants help desk at 1-888-336-8930. If the e-Application system 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 the Department's e-Application system.

Waiver of Rulemaking

34 CFR 222.3, which establishes the annual January 31 Impact Aid application deadline, is currently in effect. However, applicants may not have had sufficient time to gather data and comply with the annual deadline because they were adversely affected by severe weather conditions. Because this amendment makes a procedural change for this year's affected applications only as a result of unique circumstances, proposed rulemaking is not required under 5 U.S.C. 553(b)(A). In addition, the Secretary has determined under 5 U.S.C. 553(b)(B) that proposed rulemaking on this one-time suspension of the regulatory deadline date is impracticable, unnecessary, and contrary to the public interest.

Program Authority: 20 U.S.C. 7702, 7703, 7705.

Delegation of Authority: The Secretary of Education has delegated authority to Joseph Conaty, Director, Academic Improvement and Teacher Quality Programs for the Office of Elementary and Secondary Education to perform the functions of the Assistant Secretary for Elementary and Secondary Education.

Dated: February 13, 2009.

Joseph C. Conaty,

Director, Academic Improvement and Teacher Quality Programs.

[FR Doc. E9-3535 Filed 2-18-09; 8:45 am]

BILLING CODE 4000-01-P

DEPARTMENT OF ENERGY

[OE Docket No. EA-258-C]

Application To Export Electric Energy; Brookfield Energy Marketing, Inc.

AGENCY: Office of Electricity Delivery and Energy Reliability, DOE.

ACTION: Notice of application.

SUMMARY: Brookfield Energy Marketing, Inc. (BEMI) has applied to renew its authority to transmit electric energy from the United States to Canada pursuant to section 202(e) of the Federal Power Act.

DATES: Comments, protests, or requests to intervene must be submitted on or before March 23, 2009.

ADDRESSES: Comments, protests or requests to intervene should be addressed as follows: Office of Electricity Delivery and Energy Reliability, Mail Code: OE-20, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585-0350 (FAX 202-586-8008).

FOR FURTHER INFORMATION CONTACT: Ellen Russell (Program Office) 202-586-9624 or Michael Skinker (Program Attorney) 202-586-2793.

SUPPLEMENTARY INFORMATION: Exports of electricity from the United States to a foreign country are regulated and require authorization under section 202(e) of the Federal Power Act (FPA) (16 U.S.C. 824a(e)).

On April 25, 2002, the Department of Energy (DOE) issued Order No. EA-258 authorizing Maclaren Energy, Inc. to transmit electric energy from the United States to Canada as a power marketer using international transmission facilities located at the United States border with Canada. On April 23, 2004, DOE issued Order No. EA-258-A which renewed that authorization for a five-year period and reflected the company's name change to Branscan Energy Marketing, Inc. On May 8, 2008, DOE issued Order No. EA-258-B which amended the previous authorization to reflect a name change to Brookfield Energy Marketing Inc. (BEMI). BEMI's Order will expire on April 23, 2009. On October 20, 2008, BEMI filed an application with DOE to renew the export authority contained in Order No. EA-258-A for an additional five-year term.

The electric energy which BEMI proposes to export to Canada would be surplus energy purchased from electric utilities, Federal power marketing agencies, and other entities within the United States. BEMI will arrange for the delivery of exports to Canada over the international transmission facilities owned by Basin Electric Power Cooperative, Bonneville Power Administration, Eastern Maine Electric Cooperative, International Transmission Co., Joint Owners of the Highgate Project, Long Sault, Inc., Maine Electric Power Company, Maine Public Service Company, Minnesota Power, Inc., Minnkota Power Cooperative, Inc., New York Power Authority, Niagara Mohawk Power Corp., Northern States Power Company, Vermont Electric Power Company, and Vermont Electric Transmission Co.

The construction, operation, maintenance, and connection of each of the international transmission facilities to be utilized by BEMI has previously

been authorized by a Presidential permit issued pursuant to Executive Order 10485, as amended.

Procedural Matters: Any person desiring to become a party to these proceedings or to be heard by filing comments or protests to this application should file a petition to intervene, comment, or protest at the address provided above in accordance with 385.211 or 385.214 of the Federal Energy Regulatory Commission's Rules of Practice and Procedures (18 CFR 385.211, 385.214). Fifteen copies of each petition and protest should be filed with DOE on or before the date listed above.

Comments on the BEMI application to export electric energy to Canada should be clearly marked with Docket No. EA-258-C. Additional copies are to be filed directly with Alain Genier, Legal Counsel, Brookfield Energy Marketing, Inc., 480 de la Cite Blvd., Gatineau, Quebec J8T 8R3 and Amy S. Koch, Patton Boggs LLP, 2550 M Street, NW., Washington, DC 20037. A final decision will be made on this application after the environmental impacts have been evaluated pursuant to the National Environmental Policy Act of 1969, and a determination is made by DOE that the proposed action will not adversely impact on the reliability of the U.S. electric power supply system.

Copies of this application will be made available, upon request, for public inspection and copying at the address provided above, by accessing the program Web site at http://www.oe.energy.gov/permits_pending.htm, or by e-mailing Odessa Hopkins at Odessa.Hopkins@hq.doe.gov.

Issued in Washington, DC, on February 12, 2009.

Anthony J. Como,

Director, Permitting and Siting, Office of Electricity Delivery and Energy Reliability.

[FR Doc. E9-3492 Filed 2-18-09; 8:45 am]

BILLING CODE 6450-01-P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Oak Ridge Reservation

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the Environmental Management Site-Specific Advisory Board (EM SSAB), Oak Ridge Reservation. The Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770) requires that public notice of this

meeting be announced in the **Federal Register**.

DATES: Wednesday, March 11, 2009, 6 p.m.

ADDRESSES: DOE Information Center, 475 Oak Ridge Turnpike, Oak Ridge, Tennessee.

FOR FURTHER INFORMATION CONTACT: Pat Halsey, Federal Coordinator, Department of Energy Oak Ridge Operations Office, P.O. Box 2001, EM-90, Oak Ridge, TN 37831. Phone (865) 576-4025; Fax (865) 576-2347 or e-mail: halseypj@oro.doe.gov or check the Web site at <http://www.oakridge.doe.gov/em/ssab>.

SUPPLEMENTARY INFORMATION:

Purpose of the Board: The purpose of the Board is to make recommendations to DOE in the areas of environmental restoration, waste management, and related activities.

Tentative Agenda: The main meeting presentation will be environmental management program budget and prioritization.

Public Participation: The EM SSAB, Oak Ridge, welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact Pat Halsey at least seven days in advance of the meeting at the phone number listed above. Written statements may be filed with the Board either before or after the meeting. Individuals who wish to make oral statements pertaining to the agenda item should contact Pat Halsey at the address or telephone number listed above. Requests must be received five days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Deputy Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Individuals wishing to make public comment will be provided a maximum of five minutes to present their comments.

Minutes: Minutes will be available by writing or calling Pat Halsey at the address and phone number listed above. Minutes will also be available at the following Web site: <http://www.oakridge.doe.gov/em/ssab/minutes.htm>.

Issued at Washington, DC on February 13, 2009.

Rachel Samuel,

Deputy Committee Management Officer.

[FR Doc. E9-3499 Filed 2-18-09; 8:45 am]

BILLING CODE 6450-01-P

DEPARTMENT OF ENERGY**Technical Workshop in Support of DOE 2009 Congestion Study**

AGENCY: Office of Electricity Delivery and Energy Reliability, DOE.

ACTION: Notice of Technical Workshop.

SUMMARY: The Department of Energy's (DOE) Office of Electricity Delivery and Energy Reliability (OE) will conduct a Technical Workshop to receive input from subject matter experts on the historical transmission data in the Western and Eastern Interconnections and on studies of future transmission projections within the two Interconnections. The input received will be used by DOE in preparing the 2009 Congestion Study which will be submitted to Congress by August 8, 2009. Specific issues to be addressed at the Technical Workshop include: Region-specific interpretation of congestion data; congestion metrics; and experiences and issues associated with region-wide planning. No fee is required to attend the Technical Workshop; however, pre-registration is requested for meeting planning purposes. Additional information, including a registration link, is available at <http://www.congestion09.anl.gov/>.

DATES: The technical workshop will be held on March 25, 2009, from 10 a.m. to 5 p.m., and March 26, 2009, from 8 a.m. to 12 noon.

Location: Crowne Plaza Chicago O'Hare Hotel & Conference Center, 5440 North River Road, Rosemont, Illinois, 60018, Phone: 847-671-6350.

FOR FURTHER INFORMATION CONTACT: For technical information contact David Meyer, DOE Office of Electricity Delivery and Energy Reliability, phone: 202-586-1411, or e-mail david.meyer@hq.doe.gov. For logistical information contact Lauren Giles, Energetics Incorporated, phone 410-953-6250, or e-mail lgiles@energetics.com.

SUPPLEMENTARY INFORMATION: The Technical Workshop will consist of five sessions as follows: March 25, Session 1, Historic Congestion in the Western Interconnection; Session 2, Historic Congestion in the Eastern Interconnection; Session 3, Studies of Future Congestion in the Western Interconnection; March 26, Session 4, Studies of Future Congestion in the Eastern Interconnection; and Session 5, Status Report on the 2009 Congestion Study.

Issued in Washington, DC, on February 12, 2009.

Anthony J. Como,

Acting Deputy Assistant Secretary, Permitting, Siting and Analysis Division, Office of Electricity Delivery and Energy Reliability.

[FR Doc. E9-3490 Filed 2-18-09; 8:45 am]

BILLING CODE 6450-01-P

DEPARTMENT OF ENERGY**Federal Energy Regulatory Commission**

[Docket No. IC09-556-000]

Commission Information Collection Activities (FERC-556); Proposed Collection; Comment Request; Extension

February 11, 2009.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of proposed information collection and request for comments.

SUMMARY: In compliance with the requirements of section 3506(c)(2)(a) of the Paperwork Reduction Act of 1995 (Pub. L. 104-13), the Federal Energy Regulatory Commission (Commission) is soliciting public comment on the specific aspects of the information collection described below.

DATES: Comments in consideration of the collection of information are due April 17, 2009.

ADDRESSES: Comments may be filed either electronically or in paper format, and should refer to Docket No. IC09-556-000. Documents must be prepared in an acceptable filing format and in compliance with Commission submission guidelines at <http://www.ferc.gov/help/submission-guide.asp>.

Comments may be eFiled. The eFiling option under the Documents & Filings tab on the Commission's home web page (<http://www.ferc.gov>) directs users to the eFiling Web site. First-time users follow the eRegister instructions on the eFiling web page to establish a user name and password before eFiling. Filers will receive an e-mailed confirmation of their eFiled comments. Commenters filing electronically should not make a paper filing. If unable to make a filing electronically, deliver an original and 14 paper copies of the filing to: Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street, NE., Washington, DC 20426.

Parties interested in receiving automatic notification of activity in this docket may do so through eSubscription. The eSubscription option

under the Documents & Filings tab on the Commission's home web page directs users to the eSubscription web page. Users submit the docket numbers of the filings they wish to track and will subsequently receive an e-mail notification each time a filing is made under the submitted docket numbers. First-time users will need to establish a user name and password before eSubscribing.

Filed comments and FERC issuances may be viewed, printed and downloaded remotely from the Commission's Web site. The red eLibrary link found at the top of most of the Commission's web pages directs users to FERC's eLibrary. From the eLibrary web page, choose General Search, and in the Docket Number space provided, enter IC09-556; then click the Submit button at the bottom of the page.

For help with any of the Commission's electronic submission or retrieval systems, contact FERC Online Support (e-mail at ferconlinesupport@ferc.gov, or telephone toll-free (866) 208-3676 (TTY (202) 502-8659)).

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

SUPPLEMENTARY INFORMATION: The Commission uses the FERC Form No. 556, Cogeneration and Small Power Production, OMB Control Number 1902-0075, to implement the statutory provisions in Federal Power Act (FPA) section 3 (16 U.S.C. 792-828c) and sections 201 and 210 of the Public Utility Regulatory Policies Act (PURPA) of 1978 (16 U.S.C. 2601). These statutes authorize the Commission to encourage cogeneration and small power production and to prescribe such rules as necessary in order to carry out these statutory directives. Commission regulations pertaining to FERC Form No. 556 can be found in 18 CFR 131.80 and 18 CFR Part 292.

A primary objective of PURPA, as indicated in section 2 of the FPA is the conservation of energy through efficient use of energy resources and facilities by electric utilities. One means of achieving this goal is to encourage production of electric power by cogeneration facilities which make use of reject heat associated with commercial or industrial processes, and by small power production facilities which use other wastes and renewable resources as fuel. Congress, through PURPA, established various regulatory benefits to encourage the development of small power production facilities and

cogeneration facilities which meet certain technical and corporate criteria. Facilities that meet these criteria are deemed qualifying facilities (QFs).

The Energy Policy Act of 2005 (EPA 2005) ¹ and in particular section 1253(a), added section 210(m) to the PURPA providing, among other things, for termination of the requirement that an electric utility enter into a new contract or obligation to purchase electric energy from qualifying cogeneration facilities and qualifying small power production facilities (QFs) if the Commission finds that the QF has nondiscriminatory access to one of three categories of markets defined in section 210(m)(1)(A), (B) or (C). Thus, to relieve an electric utility of its mandatory purchase obligation under PURPA, the Commission has to identify which, if any, markets meet the criteria contained in 210(m)(1)(A), (B) or (C), and, if such markets are identified, it must determine whether QFs have nondiscriminatory access to those markets.

In 18 CFR Part 292, the Commission provides: (1) QF certification criteria, (2) QF application information, (3) a description of some of the benefits afforded QFs,² and (4) transaction obligations electric utilities have with respect to QFs.

Among the PURPA benefits identified in Part 292, are the requirements for electric utilities: (1) To make avoided cost information and system capacity needs available to the public; (2) to purchase energy and capacity from QFs favorably priced on the basis of the avoided cost of the power that is displaced by the QF power (i.e., the incremental cost to the purchasing utility if it had generated the displaced power or purchased it from another source); (3) to sell backup, maintenance and other power services to QFs at rates based on the cost of rendering the services; (4) to provide certain interconnection and transmission services priced on a nondiscriminatory basis; and (5) to operate in “parallel” with other interconnected QFs so that

they may be electrically synchronized with electric utility grids.

A blank FERC Form No. 556 may be downloaded from the Commission’s Web site: <http://www.ferc.gov/docs-filing/hard-fil.asp#556>. Click on the Electric tab, then click the Form No. 556 link. Choose from an MS Word or RTF format in the Downloads & Links column. Examples of filings may be viewed through the Commission’s eLibrary system. Click on the red eLibrary link found at the top of any of the Commission’s Web pages, choose General Search, then under Class/Type Info choose Type: Qualifying Facility Application or PURPA Energy Utility Filing; then click the Submit button at the bottom of the page.

Action: The Commission is requesting a three-year extension of the current expiration date.

Burden Statement: The public reporting burden for this collection is estimated to be as follows:

FERC-556	Number of respondents annually (1)	Number of responses per respondent (2)	Average burden hours per response (3)	Total annual burden hours (1) × (2) × (3)
FERC Certification	4	1	20	80
Self Certification	820	1	3	2460
Total	824	2540

The estimated total cost to respondents is \$154,334.31 [2,540 hours divided by 2,080 hours ³ per year, times \$126,384 ⁴ equals \$154,334.31]. The cost per respondent is \$187.30.

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 respondent’s cost estimate is based on salaries for professional and

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

Comments are invited on: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information will have practical utility; (2) the accuracy of the agency’s burden estimate of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information to be collected; and (4) ways to minimize

respondent information collection burden.

Kimberly D. Bose,
Secretary.

[FR Doc. E9-3452 Filed 2-18-09; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP07-367-005]

Columbia Gas Transmission, LLC; Notice of Application

February 11, 2009.

Take notice that on February 10, 2009, Columbia Gas Transmission, LLC (Columbia) filed an application to amend the certificate issued under section 7 of the Natural Gas Act to revise initial rates and estimated costs and revise certain exhibits in the Order Issuing Certificates and Approving

¹ Pub. L. 109-58, 1253, 119 Stat. 594 (2005).

² Other benefits may be available to certain QFs pursuant to other federal, state or local laws.

³ Number of hours an employee works each year.

⁴ Average annual salary per employee.

Abandonment dated January 14, 2008, 122 FERC ¶ 61,021, in this proceeding.

Any questions regarding this application should be directed to counsel for Columbia, Frederic J. George, Columbia Gas Transmission, LLC, P.O. Box 1273, Charleston, WV 25325-1273; telephone: (304) 357-2359, fax (304) 357-3206; e-mail: fgeorge@nisource.com.

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

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

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

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

Comment Date: 5 p.m. Eastern Time on Monday, February 23, 2009.

Kimberly D. Bose,
Secretary.

[FR Doc. E9-3448 Filed 2-18-09; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2232-561]

Duke Energy Carolinas, LLC; Notice of Application for Amendment of License and Soliciting Comments, Motions To Intervene, and Protests

February 11, 2009.

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

a. *Application Type:* Non-Project Use of Project Lands and Waters.

b. *Project No.:* 2232-561.

c. *Date Filed:* January 14, 2009.

d. *Applicant:* Duke Energy Carolinas.

e. *Name of Project:* Catawba-Wateree Project.

f. *Location:* The project is located on Lake Hickory in Alexander County, North Carolina. The project does not occupy federal lands.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. *Applicant Contact:* Mr. Kelvin K. Reagan, Duke Energy Carolinas, Senior Lake Services Representative, P.O. Box 1006, Charlotte, NC 28201-1006, (704) 382-9386.

i. *FERC Contact:* Rebecca Martin at 202-502-6012, or e-mail rebecca.martin@ferc.gov.

j. *Deadline for Filing Comments and/or Motions:* March 11, 2009.

All documents (original and eight copies) should be filed with: The Secretary, Kimberly D. Bose, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Please include the project number (P-2232-561) on any comments or motions filed.

The Commission's Rules of Practice and Procedure require all intervenors filing documents with the Commission to serve a copy of that document on each person whose name appears on the official service list for the project. Further, if an intervenor 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. A copy of any

motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

k. *Description of Application:* The licensee requests Commission approval to lease 2.39 acres of land within the project boundary to C. Stafford, LLC to expand the Taylorsville Beach Marina. The proposal is to increase the marina's boat-docking capacity from 48 slips to 136 slips. The boat-docking locations would be constructed in seven sections of floating dock. The marina would also include 17 personal watercraft slips, boat ramps for dry storage, a staging area, and an open deck area for fishing. The development would also include two gas-dock facilities and a pump-out station. No dredging is proposed.

l. *Location of Application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE., Room 2A, Washington, DC 20426, or by calling (202) 502-8371. This filing may also 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, call 1-866-208-3372, or e-mail FERCOnlineSupport@ferc.gov, for TTY, call (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. 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. 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 described 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. E9-3447 Filed 2-18-09; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP09-56-000]

Midcontinent Express Pipeline LLC; Notice of Application

February 11, 2009.

Take notice that on January 29, 2009, Midcontinent Express Pipeline LLC (Midcontinent) 3250 Lacey Road, Suite 700, Downers Grove, Illinois 60515, filed an application in Docket No. CP09-56-000, pursuant to section 7(c) of the Natural Gas Act (NGA) and Part 157 of the Commission's regulations, requesting a certificate of public convenience and necessity to construct and operate facilities to expand the capacity of its system in Zone 1 by 300,000 Dth per day. Specifically, Midcontinent proposes to increase compression at three certificated compressor stations: (1) Lamar Compressor Station in Lamar County, Texas—one new 6,135 horsepower (hp) unit; (2) Atlanta Compressor Station in Cass County, Texas—two new units totaling 16,360 hp and an increase the certificated level of operation of two compressor units requested in Docket No. CP08-6-002 by a total of 4,090 hp; and (3) Vicksburg Compressor Station in Hinds County, Mississippi—one new 6,135 hp unit. In addition, Midcontinent proposes to add a new inlet filter/separator at its certificated Perryville

Compressor Station in Union Parish, Louisiana. Midcontinent requests a determination that rolled-in rate treatment is appropriate for the proposed facilities.

Any questions regarding this application should be directed to Bruce H. Newsome, Vice President, Midcontinent Express Pipeline LLC, 3250 Lacey Road, Suite 700, Downers Grove, Illinois 60515, telephone no. (630) 725-3070, and e-mail: bruce_newsome@kindermorgan.com.

Pursuant to section 157.9 of the Commission's rules, 18 CFR 157.9, within 90 days of this Notice the Commission staff will either complete its environmental assessment (EA) and place it into the Commission's public record (eLibrary) for this proceeding; or issue a Notice of Schedule for Environmental Review. If a Notice of Schedule for Environmental Review is issued, it will indicate, among other milestones, the anticipated date for the Commission staff's issuance of the final environmental impact statement (FEIS) or EA for this proposal. The filing of the EA in the Commission's public record for this proceeding or the issuance of a Notice of Schedule for Environmental Review will serve to notify federal and state agencies of the timing for the completion of all necessary reviews, and the subsequent need to complete all federal authorizations within 90 days of the date of issuance of the Commission staff's FEIS or EA.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before the comment date stated below, file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 14 copies of filings made with the Commission and must mail a copy to the applicant and to every other party in the proceeding. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as

possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commentators will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commentators will not be required to serve copies of filed documents on all other parties. However, the non-party commentators will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

The Commission strongly encourages electronic filings of comments, protests and interventions in lieu of paper using the "eFiling" link at <http://www.ferc.gov>. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at <http://www.ferc.gov>, using the "eLibrary" link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an "eSubscription" link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail FERCOnlineSupport@ferc.gov, or call (866) 208-3676 (toll free). For TTY, call (202) 502-8659.

Comment Date: March 4, 2009.

Kimberly D. Bose,
Secretary.

[FR Doc. E9-3450 Filed 2-18-09; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY**Federal Energy Regulatory Commission**

[Project No. 13341-000]

Natural Currents Energy Services, LLC; Notice of Preliminary Permit Applications Accepted for Filing and Soliciting Comment, Motions To Intervene, and Competing Applications

February 11, 2009.

On December 8, 2008, Natural Currents Energy Services, LLC filed an application, pursuant to section 4(f) of the Federal Power Act, proposing to study the feasibility of the Gastineau Channel Tidal Project, to be located on Gastineau Channel in City and Borough of Juneau, Alaska.

The proposed Gastineau Channel Tidal Project consists of: (1) 6 to 12 proposed Red Hawk TISEC generating units having a total installed capacity of 24 megawatts, (2) a proposed transmission line, and (3) appurtenant facilities. The Natural Currents Energy Services, LLC, project would have an average annual generation of 613.2 megawatt-hours and be sold to a local utility.

Applicant Contact: Mr. Roger Bason, Natural Currents Energy Services, 24 Roxanne Boulevard, Highland, New York 12561, phone (845) 691-4009.

FERC Contact: Robert Bell, (202) 502-6062.

Deadline for filing comments, motions to intervene, competing applications (without notices of intent), or notices of intent to file competing applications: 60 days from the issuance of this notice. Comments, motions to intervene, notices of intent, and competing applications may be filed electronically via the Internet. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the "e-Filing" link. If unable to be filed electronically, documents may be paper-filed. To paper-file, an original and eight copies should be mailed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. For more information on how to submit these types of filings please go to the Commission's Web site located at <http://www.ferc.gov/filing-comments.asp>. More information about this project can be viewed or printed on the "eLibrary" link of Commission's Web site at <http://www.ferc.gov/docs-filing/elibrary.asp>. Enter the docket number (P-13341) in the docket number field to access the document. For

assistance, call toll-free 1-866-208-3372.

Kimberly D. Bose,
Secretary.

[FR Doc. E9-3454 Filed 2-18-09; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY**Federal Energy Regulatory Commission**

[Project No. 13239-001]

Parker Knoll Hydro, LLC; Notice of Intent To File License Application, Filing of Pre-Application Document, and Approving Use of the Traditional Licensing Process

February 11, 2009.

a. *Type of Filing:* Notice of Intent to File License Application and Request to Use the Traditional Licensing Process.

b. *Project No.:* 13239-001.

c. *Date Filed:* December 30, 2008.

d. *Submitted by:* Parker Knoll Hydro, LLC.

e. *Name of Project:* Parker Knoll Pumped Storage Hydroelectric Project.

f. *Location:* The project would be located in Grass Valley and on the western slope of Parker Mountain near Richfield, Piute County, Utah.

g. *Filed Pursuant to:* 18 CFR 5.3 of the Commission's Regulations.

h. *Potential Applicant Contact:* Brent L. Smith, Chief Operations Officer, Symbiotics, LLC, P.O. Box 535, Rigby, ID 83442; (208) 745-0834; e-mail—brent.smith@symbioticsenergy.com.

i. *FERC Contact:* Aaron Liberty, (202) 502-6862 or by e-mail at aaron.liberty@ferc.gov.

j. Parker Knoll Hydro filed its request to use the Traditional Licensing Process on December 30, 2008. Parker Knoll Hydro filed public notice of its request on January 8, 2009. In a letter dated February 10, 2009, the Director of the Office of Energy Projects approved Parker Knoll Hydro's request to use the Traditional Licensing Process.

k. With this notice, we are initiating informal consultation with: (a) The U.S. Fish and Wildlife Service and/or NOAA Fisheries under section 7 of the Endangered Species Act and the joint agency regulations thereunder at 50CFR Part 402; and (b) the Utah State Historic Preservation Officer, as required by section 106, National Historical Preservation Act, and the implementing regulations of the Advisory Council on Historic Preservation at 36 CFR 800.2.

l. With this notice, we are designating Parker Knoll Hydro as the Commission's non-federal representative for carrying

out informal consultation, pursuant to Section 7 of the Endangered Species Act and Section 106 of the National Historic Preservation Act.

m. Parker Knoll Hydro filed a Pre-Application Document (PAD; including a proposed process plan and schedule) with the Commission, pursuant to 18 CFR 5.6 of the Commission's Regulations.

n. A copy of the PAD is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site (<http://www.ferc.gov>), using the "eLibrary" link. Enter the docket number, excluding the last three digits, in the docket number field to access the document. For assistance, contact FERC Online Support at

FERCOnlineSupport@ferc.gov, or toll-free at 1-866-208-3676, or for TTY, (202) 502-8659. A copy is also available for inspection and reproduction at the address in paragraph h.

o. Register online at <http://ferc.gov/esubscribenow.htm> to be notified via email of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

Kimberly D. Bose,
Secretary.

[FR Doc. E9-3453 Filed 2-18-09; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY**Federal Energy Regulatory Commission**

[Project No. 13346-000]

Paynebridge, LLC; Notice of Preliminary Permit Applications Accepted for Filing and Soliciting Comment, Motions To Intervene, and Competing Applications

February 11, 2009.

On December 16, 2008, Paynebridge, LLC filed an application, pursuant to section 4(f) of the Federal Power Act, proposing to study the feasibility of the William Dam Project, to be located on the East Fork of the White River, Lawrence County, Indiana.

The proposed William Dam Project consists of: (1) A proposed 280-foot-long, 21.7-foot-high William Dam, (2) a proposed reservoir having a surface area of 263 acres, with a storage capacity of 2,680 acre-feet and normal water surface elevation of 475 feet mean sea level, (3) an existing powerhouse containing four generators with a total installed capacity of 4 megawatts, (4) a proposed 200-foot-long, 12.4 kilovolt transmission line,

and (5) appurtenant facilities. The Paynebridge, LLC, project would have an average annual generation of 20 gigawatt-hours, which would be sold to a local utility.

Applicant Contact: Mr. Dan Irvin, Paynebridge, LLC, 33 Commercial Street, Gloucester, MA 01930, phone (978) 252-7631.

FERC Contact: Robert Bell, (202) 502-6062.

Deadline for filing comments, motions to intervene, competing applications (without notices of intent), or notices of intent to file competing applications: 60 days from the issuance of this notice. Comments, motions to intervene, notices of intent, and competing applications may be filed electronically via the Internet. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the "e-Filing" link. If unable to be filed electronically, documents may be paper-filed. To paper-file, an original and eight copies should be mailed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. For more information on how to submit these types of filings please go to the Commission's Web site located at <http://www.ferc.gov/filing-comments.asp>. More information about this project can be viewed or printed on the "eLibrary" link of Commission's Web site at <http://www.ferc.gov/docs-filing/elibrary.asp>. Enter the docket number (P-13346) in the docket number field to access the document. For assistance, call toll-free 1-866-208-3372.

Kimberly D. Bose,
Secretary.

[FR Doc. E9-3455 Filed 2-18-09; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP09-62-000]

Columbia Gas Transmission, LLC; Notice of Request Under Blanket Authorization

February 11, 2009.

Take notice that on February 9, 2009, Columbia Gas Transmission, LLC (Columbia), having its principal office at 5151 San Felipe, Suite 2500, Houston, Texas 77056, filed a prior notice request pursuant to sections 157.205 and 157.208 of the Commission's regulations under the Natural Gas Act (NGA) for authorization to increase the maximum

allowable operating pressure (MAOP), under Columbia's blanket certificate issued in Docket No. CP83-076-000, all as more fully set forth in the application, which is on file with the Commission and open to public inspection. The filing may also be viewed on the Web at <http://www.ferc.gov> using the "eLibrary" link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC at FERCOnlineSupport@ferc.gov or call toll-free, (866) 208-3676 or TTY, (202) 502-8659.

Specifically, Columbia requests authorization to increase the MAOP of its Line L-2102 from its current 210 psig to a new MAOP of 350 psig and to operate the pipeline at that higher pressure. Line L-2102 consists of approximately 4 miles of 10-inch pipeline beginning at the interconnection of Line-2102 and Line L-2100 and terminating at the interconnection with Line M-48 in Knox County, Ohio. The uprate is requested to allow Columbia Gas of Ohio, Inc. to meet pressure requirements to one of its customers at the Rolls Royce Plant in Mt. Vernon, Ohio. The proposed uprate creates a capacity increase of approximately 11 thousand dekatherms per day (MDth/d). The increase in MAOP will also improve the operating efficiency of the pipeline.

Any questions regarding the application should be directed to James R. Downs, Director of Regulatory Affairs, Columbia Gas Transmission, LLC, 5151 San Felipe Suite 2500 Houston, TX 77056, phone: (713) 267-4759, fax: (713) 267-4755, e-mail: jdowns@nisource.com, or Victoria J. Hamilton, Certificate Lead, Columbia Gas Transmission, LLC, P.O. Box 1273 Charleston, West Virginia 25325, phone: (304) 357-2297, fax: (304) 357-2926, e-mail: vhamilton@nisource.com.

Any person may, within 60 days after the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention. Any person filing to intervene or the Commission's staff may, pursuant to section 157.205 of the Commission's Regulations under the Natural Gas Act (NGA) (18 CFR 157.205) file a protest to the request. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request

shall be treated as an application for authorization pursuant to section 7 of the NGA.

The Commission strongly encourages electronic filings of comments, protests, and interventions via the internet in lieu of paper. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site (<http://www.ferc.gov>) under the "e-Filing" link.

Kimberly D. Bose,
Secretary.

[FR Doc. E9-3451 Filed 2-18-09; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

February 12, 2009.

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:
Docket Numbers: RP96-312-187.

Applicants: Tennessee Gas Pipeline Company.

Description: Tennessee Gas Pipeline Company submits a negotiated rate gas transportation arrangement with JP Morgan Ventures Energy Corp pursuant to Tennessee's Rate Schedule FT-A, to be effective 3/15/09.

Filed Date: 02/06/2009.

Accession Number: 20090209-0176.

Comment Date: 5 p.m. Eastern Time on Wednesday, February 18, 2009.

Docket Numbers: RP09-160-001.

Applicants: Egan Hub Storage, LLC.

Description: Egan Hub Storage, LLC submits Sub. Third Revised Sheet 25 *et al.* to FERC Gas Tariff, First Revised Volume 1, to be effective 2/1/09.

Filed Date: 02/06/2009.

Accession Number: 20090209-0177.

Comment Date: 5 p.m. Eastern Time on Wednesday, February 18, 2009.

Docket Numbers: RP09-355-000.

Applicants: Transcontinental Gas Pipe Line Company,

Description: Transcontinental Gas Pipe Line Company LLC submits First Revised Sheet 335 *et al.* to FERC Gas Tariff, Fourth Revised Volume 1, to be effective 3/14/09.

Filed Date: 02/10/2009.

Accession Number: 20090211-0073.

Comment Date: 5 p.m. Eastern Time on Monday, February 23, 2009.

Docket Numbers: RP09-356-000.

Applicants: Williston Basin Interstate Pipeline Co.

Description: Williston Basin Interstate Pipeline Co submits Fifth Revised Sheet 192 *et al.* to FERC Gas Tariff, Second

Revised Volume 1, to be effective 3/13/09.

Filed Date: 02/10/2009.

Accession Number: 20090211-0074.

Comment Date: 5 p.m. Eastern Time on Monday, February 23, 2009.

Docket Numbers: RP09-357-000.

Applicants: Venice Gathering System, L.L.C.,

Description: Venice Gathering System, LLC submits Second Revised Sheet 117 *et al.* to FERC Gas Tariff, Original Volume 1, to be effective 3/1/09.

Filed Date: 02/11/2009.

Accession Number: 20090212-0054.

Comment Date: 5 p.m. Eastern Time on Monday, February 23, 2009.

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

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

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

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

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

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. E9-3463 Filed 2-18-09; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP08-06-002]

Midcontinent Express Pipeline LLC; Notice of Intent To Prepare an Environmental Assessment for the Proposed MEP Amendment Project and Request for Comments on Environmental Issues

February 11, 2009.

The staff of the Federal Energy Regulatory Commission (FERC or Commission) will prepare an environmental assessment (EA) that will discuss the environmental impacts of the MEP Amendment Project (MEP Amendment) involving construction and operation of facilities by Midcontinent Express Pipeline LLC (MEP) in Cass County, Texas, and Hinds County, Mississippi.¹ This EA will be used by the Commission in its decision-making process to determine whether the project is in the public convenience and necessity.

This notice announces the opening of the scoping process we will use to gather input from the public and interested agencies on the project. Your input will help the Commission staff determine which issues need to be evaluated in the EA. Please note that the scoping period will close on March 13, 2009.

This notice is being sent to affected landowners; federal, state, and local government representatives and agencies; elected officials; environmental and public interest groups; Native American Tribes; other interested parties; and local libraries and newspapers. State and local government representatives are asked to notify their constituents of this planned project and encourage them to comment on their areas of concern.

¹ On December 30, 2008, MEP filed its amended application with the Commission under section 7 of the Natural Gas Act and Part 157 of the Commission's regulations. The Commission issued its Notice of Amendment on January 12, 2009.

If you are a landowner receiving this notice, you may be contacted by a MEP representative about survey permission and/or the acquisition of an easement to construct, operate, and maintain the proposed facilities. The company would seek to negotiate a mutually acceptable agreement. However, if the project is approved by the Commission, that approval conveys with it the right of eminent domain. Therefore, if easement negotiations fail to produce an agreement, the natural gas company could initiate condemnation proceedings in accordance with state law.

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

Summary of the Proposed Project

MEP proposes an expansion and equipment modifications at the previously certificated Atlanta Compressor Station in Cass County, Texas, and relocation of the previously certificated Vicksburg Compressor Station to Hinds County, Mississippi. MEP is proposing to:

- Substitute two G16 compressor units for the two previously certificated G12 compressor units at Atlanta Compressor Station;
- Increase the land parcel size at the Atlanta Compressor Station from 30.0 acres to 36.7 acres to encompass an adjacent block valve that was certificated under Docket CP08-06-000 for the MEP pipeline; and
- Relocate the previously certificated Vicksburg Compressor Station approximately 3.5 miles to the east from Warren County, Mississippi to Hinds County, Mississippi. The relocation would involve acquiring a new 74.8 acre land parcel. No equipment changes are proposed at the Vicksburg Compressor Station.

The specific location of the project facilities is shown in Appendix 1.²

² The appendices referenced in this notice are not being printed in the **Federal Register**. Copies of all appendices are available on the Commission's Web site at the "eLibrary" link or from the Commission's Public Reference Room, 888 First Street, NE., Washington, DC 20426, or call (202) 502-8371. For instructions on connecting to eLibrary, refer to the last page of this notice. Copies of the appendices were sent to all those receiving this notice in the mail.

If approved, MEP proposes to commence construction of the proposed facilities in September 2009.

Land Requirements for Construction

The area that would be temporarily affected by construction of the Atlanta Compressor Station would increase over the previously certificated Project by 10.0 acres to a total of approximately 22.0 acres. The area that would be permanently affected by operation of the Atlanta Compressor Station would increase by 1.4 acres to a total of approximately 13.1 acres.

Construction of the Vicksburg Compressor Station would temporarily impact approximately 31.8 acres. Permanent land requirements for operation of the Vicksburg Compressor Station would impact about approximately 20.7 acres.

MEP is proposing to locate the compressor stations adjacent to existing roadways. MEP is proposing to construct access roads between the existing roadways and each area where the compressor station construction activity would occur. MEP would retain a permanent access road for each site after construction is complete.

The EA Process

The National Environmental Policy Act (NEPA) requires the Commission to take into account the environmental impacts that could result from an action whenever it considers the issuance of a Certificate of Public Convenience and Necessity. NEPA also requires us to discover and address concerns the public may have about proposals. This process is referred to as "scoping." The main goal of the scoping process is to focus the analysis in the EA on the important environmental issues. By this Notice of Intent, the Commission staff requests public comments on the scope of the issues to address in the EA. All comments received are considered during the preparation of the EA. State and local government representatives are encouraged to notify their constituents of this proposed action and encourage them to comment on their areas of concern.

In the EA we³ will discuss impacts that could occur as a result of the construction and operation of the proposed project under these general headings:

- Geology and soils
- Land use
- Water resources, fisheries, and wetlands

- Cultural resources
- Vegetation and wildlife
- Air quality and noise
- Endangered and threatened species
- Public safety⁹

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

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

With this NOI, we are asking federal, state, and local agencies with jurisdiction and/or special expertise with respect to environmental issues to formally cooperate with us in the preparation of the EA. These agencies may choose to participate once they have evaluated the proposal relative to their responsibilities. Additional agencies that would like to request cooperating agency status should follow the instructions for filing comments provided under the Public Participation section of this NOI.

Currently Identified Environmental Issues

We have already identified several issues that we think deserve attention based on a preliminary review of the proposed facilities and the environmental information provided by MEP. This preliminary list of issues may be changed based on your comments and our analysis.

- Disturbance caused by project construction may contribute to water and wind erosion of soils.
- Disturbance caused by the project may cause temporary and permanent alteration of wildlife habitat.
- Potential impacts on air quality and potential noise emissions may occur.

Public Participation

You can make a difference by providing us with your specific comments or concerns about the MEP Amendment Project. Your comments should focus on the potential

environmental effects, reasonable alternatives, and measures to avoid or lessen environmental impacts. The more specific your comments, the more useful they will be. To ensure that your comments are timely and properly recorded, please send in your comments so that they will be received in Washington, DC on or before March 13, 2009.

For your convenience, there are three methods in which you can use to submit your comments to the Commission. In all instances please reference the project docket number (CP08-06-002) with your submission. The Commission encourages electronic filing of comments and has dedicated eFiling expert staff available to assist you at 202-502-8258 or efiling@ferc.gov.

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

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

(3) You may file your comments via mail to the Commission by sending an original and two copies of your letter to:

Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First St., NE., Room 1A, Washington, DC 20426.

Label one copy of the comments for the attention of Gas Branch 3, PJ11.3.

Environmental Mailing List

An effort is being made to send this notice to all individuals, organizations, and government entities interested in and/or potentially affected by the proposed project. This includes all landowners who are potential right-of-way grantors, whose property may be used temporarily for project purposes, or who own homes within distances defined in the Commission's regulations of certain aboveground facilities.

³ "We", "us", and "our" refer to the environmental staff of the Office of Energy Projects (OEP).

If you do not want to send comments at this time but still want to remain on our mailing list, please return the Information Request (Appendix 2). If you do not return the Information Request, you will be taken off the mailing list.

Becoming an Intervenor

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

Additional Information

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

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

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

Kimberly D. Bose,
Secretary.

[FR Doc. E9-3449 Filed 2-18-09; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP04-36-005]

Weaver's Cove Energy, LLC; Notice of Filing

February 11, 2009.

Take notice that on January 30, 2009, Weaver's Cove Energy, LLC (Weaver's Cove) filed an application, pursuant to Section 3 of the Natural Gas Act (NGA) and Parts 153 and 380 of the Commission's Rules and Regulations, to amend its certificate issued on July 15, 2005 in Docket No. CP04-36-000. Weaver's Cove requests authority to site, construct, and operate an offshore berth for receiving and unloading LNG for the approved LNG terminal, in Mount Hope Bay in Massachusetts waters. The application is on file with the Commission and open for public inspection. This filing is available for review at the Commission in the Public Reference Room 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. For assistance, please contact FERC Online Support at FercOnlineSupport@ferc.gov or toll free at (866) 208-3676, or for TTY, contact (202) 502-8659.

Weaver's Cove proposes to construct, and operate: (1) An offshore berth for receiving and unloading LNG tankers in Mount Hope Bay in Massachusetts waters, (2) an LNG transfer system with buried submarine LNG transfer lines incorporating insulated "pipe-in-pipe" technology (PiP) to transfer LNG from the offshore berth to the LNG storage tank at the certificated terminal in Fall River, Massachusetts, and (3) associated minor piping and equipment changes at the terminal to accommodate the PiP transfer system. The proposed offshore berth is located approximately four miles from the certificated LNG terminal. The proposed location is approximately one mile from the nearest shoreline and two miles south of the Braga Bridge. Weaver's Cove proposes to begin construction in June 2011 and meet an in-service date in December 2014.

Any questions regarding the application are to be directed to Marcia MacClary, Weaver's Cove Energy, LLC, One New Street, Fall River, MA 02720, (508) 675-9470, or Bruce Kiely, Baker Botts L.L.P., 1299 Pennsylvania Ave., NW., Washington, DC 20004, (202) 639-7711.

On April 29, 2008, the Commission staff granted Weaver's Cove's request to use the National Environmental Policy Act (NEPA) Pre-Filing Process and assigned Docket No. PF08-18-000 to staff activities involving the offshore berth project. Now, as of the filing of this application on January 30, 2009, the NEPA Pre-Filing Process for this project has ended. From this time forward, this proceeding will be conducted in Docket No. CP04-36-005, as noted in the caption of this Notice.

Any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before the below listed comment date, file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 14 copies of filings made with the Commission and must mail a copy to the applicant and to every other party in the proceeding. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

Persons may also wish to comment further only on the environmental review of this project. Environmental commenters will be placed on the Commission's environmental mailing list, will receive copies of environmental documents issued by the Commission, and will be notified of meetings associated with the Commission's environmental review process. Those persons, organizations, and agencies who submitted comments during the NEPA Pre-Filing Process in Docket No. PF08-18-000 are already on the Commission staff's environmental mailing list for the proceeding in the above dockets and may file additional comments on or before the below listed comment date. Environmental commenters will not be required to serve copies of filed documents on all other parties. However, environmental commenters are also not parties to the proceeding and will not receive copies of all documents filed by other parties or non-environmental documents issued by the Commission. Further, they will not have the right to seek court review of any final order by Commission in this proceeding.

Motions to intervene, protests and comments may be filed electronically

via the Internet in lieu of paper, see 18 CFR 385.2001 (a)(1)(iii) and the instructions on the Commission's Web site under the "e-Filing" link. The Commission strongly encourages electronic filings.

Comment Date: March 4, 2009.

Kimberly D. Bose,
Secretary.

[FR Doc. E9-3456 Filed 2-18-09; 8:45 am]

BILLING CODE 6717-01-P

ENVIRONMENTAL PROTECTION AGENCY

[FRL-8774-4]

Science Advisory Board Staff Office; Notification of a Public Meeting of the Clean Air Scientific Advisory Committee (CASAC); Particulate Matter Review Panel

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA) Science Advisory Board (SAB) Staff Office announces a public meeting of the Clean Air Scientific Advisory Particulate Matter Review Panel to peer review EPA's *Integrated Science Assessment for Particulate Matter: First External Review Draft* and conduct a consultation on EPA's draft plans for *Particulate Matter National Ambient Air Quality Standards: Scope and Methods Plan for Health Risk and Exposure Assessment and Particulate Matter National Ambient Air Quality Standards: Scope and Methods Plan for Urban Visibility Impact Assessment*.

DATES: The public meeting will be held on Wednesday, April 1, 2009 from 8:30 a.m. to 4:45 p.m. (Eastern Time) and Thursday, April 2, 2009 from 8 a.m. to 2 p.m. (Eastern Time).

Location: The meeting will be held at the Carolina Inn, 211 Pittsboro Street, Chapel Hill, NC 27516.

FOR FURTHER INFORMATION CONTACT: Any member of the public who wants further information concerning the teleconference meeting may contact Dr. Holly Stallworth, Designated Federal Officer (DFO), EPA Science Advisory Board (1400F), U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460; via telephone/voice mail (202) 343-9867; fax (202) 233-0643; or e-mail at stallworth.holly@epa.gov. General information concerning the CASAC can be found on the EPA Web site at <http://www.epa.gov/casac>.

SUPPLEMENTARY INFORMATION:

Background: The Clean Air Scientific

Advisory Committee (CASAC) was established under section 109(d)(2) of the Clean Air Act (CAA or Act) (42 U.S.C. 7409) as an independent scientific advisory committee. CASAC provides advice, information and recommendations on the scientific and technical aspects of air quality criteria and national ambient air quality standards (NAAQS) under sections 108 and 109 of the Act. The CASAC is a Federal advisory committee chartered under the Federal Advisory Committee Act (FACA), as amended, 5 U.S.C., App. The Panel will comply with the provisions of FACA and all appropriate SAB Staff Office procedural policies. Section 109(d)(1) of the CAA requires that the Agency periodically review and revise, as appropriate, the air quality criteria and the National Ambient Air Quality Standard (NAAQS) for the six "criteria" air pollutants, including particulate matter (PM). EPA conducts scientific assessments to determine both primary (health-based) and secondary (welfare-based) standards for each of these pollutants. As part of that process, EPA's Office of Research and Development (ORD) has completed a draft document, *Integrated Science Assessment for Particulate Matter* (First External Review Draft, December 2008) and requested that CASAC peer review the document. EPA's Office of Air and Radiation (OAR) will also release two planning documents entitled *Particulate Matter National Ambient Air Quality Standards: Scope and Methods Plan for Health Risk and Exposure Assessment and Particulate Matter National Ambient Air Quality Standards: Scope and Methods Plan for Urban Visibility Impact Assessment* (February 2009). OAR has requested that the CASAC review these plans.

The purpose of the April 1-2, 2009 meeting is to review these three documents. Background information about the formation of the CASAC Particulate Matter Review Panel was published in the **Federal Register** on March 8, 2007 (72 FR 10527-10528). The Panel previously held a public teleconference on November 30, 2007 (announced in 72 FR 63177-63178) to provide consultative advice on EPA's draft *Integrated Review Plan for the National Ambient Air Quality Standards for Particulate Matter*, the first document in this review of the PM NAAQS.

Technical Contacts: Any questions concerning EPA's *Integrated Science Assessment for Particulate Matter* should be directed to Dr. Lindsay Stanek at stanek.lindsay@epa.gov or 919-541-7792. Any questions concerning EPA's *Particulate Matter*

National Ambient Air Quality Standard: Scope and Methods Plan for Health Risk and Exposure Assessment should be directed to Ms. Beth Hassett-Sipple at hassett-sipple.beth@epa.gov or 919-541-4605. Any questions concerning *Particulate Matter National Ambient Air Quality Standards: Scope and Methods Plan for Urban Visibility Impact Assessment* (February 2009) should be directed to Ms. Vicki Sandiford at sandiford.vicki@epa.gov or 919-541-2629.

Availability of Meeting Materials: A meeting agenda, charge questions and other materials for the meeting will be placed on the CASAC Web site at <http://yosemite.epa.gov/sab/sabpeople.nsf/WebCommitteesSubcommittees/CASAC%20Particulate%20Matter%20Review%20Panel> (see links to "Current Advisory Activities"). The *Integrated Science Assessment for Particulate Matter: First External Review Draft* (December 2008) is available at <http://cfpub.epa.gov/ncea/cfm/recordisplay.cfm?deid=201805>. Both of the PM NAAQS Scope and Methods Plans (February 2009) will be available at http://www.epa.gov/ttn/naaqs/standards/pm/s_pm_2007_pd.html.

Procedures for Providing Public Input: Interested members of the public may submit relevant written or oral information for consideration on the topics included in this advisory activity. *Oral Statements:* To be placed on the public speaker list for the April 1-2, 2009 meeting, interested parties should notify Dr. Holly Stallworth, DFO, by e-mail no later than March 24, 2009. Individuals making oral statements will be limited to three minutes per speaker. *Written Statements:* Written statements for the April 1-2, 2009 meeting should be received in the SAB Staff Office by March 24, 2009, so that the information may be made available to the CASAC Panel for its consideration prior to this meeting. Written statements should be supplied to the DFO in the following formats: one hard copy with original signature and one electronic copy via e-mail (acceptable file format: Adobe Acrobat PDF, MS Word, WordPerfect, MS PowerPoint, or Rich Text files in IBM-PC/Windows 98/2000/XP format). Submitters are asked to provide versions of each document submitted with and without signatures, because the SAB Staff Office does not publish documents with signatures on its Web sites.

Accessibility: For information on access or services for individuals with disabilities, please contact Dr. Stallworth at the phone number or e-mail address noted above, preferably at least ten days prior to the

teleconference, to give EPA as much time as possible to process your request.

Dated: February 11, 2009.

Anthony F. Maciorowski,

Deputy Director, EPA Science Advisory Board Staff Office.

[FR Doc. E9-3497 Filed 2-18-09; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

[FRL-8774-5]

Science Advisory Board Staff Office; Notification of a Public Teleconference of the Clean Air Scientific Advisory Committee (CASAC) Ozone Review Panel

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA) Science Advisory Board (SAB) Staff Office announces a public teleconference of the Clean Air Scientific Advisory Committee Ozone Review Panel to conduct a consultation on EPA's draft *Integrated Review Plan for the National Ambient Air Quality Standards for Ozone (February 2009)*.

DATES: The public teleconference will be held on Monday, March 30, 2009 from 11 a.m. to 2 p.m. (Eastern Time).

Location: The public teleconference will be conducted by telephone only.

FOR FURTHER INFORMATION CONTACT: Any member of the public who wants further information concerning the teleconference meeting may contact Dr. Holly Stallworth, Designated Federal Officer (DFO), EPA Science Advisory Board (1400F), U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460; via telephone/voice mail (202) 343-9867; fax (202) 233-0643; or e-mail at stallworth.holly@epa.gov. General information concerning the CASAC can be found on the EPA Web site at <http://www.epa.gov/casac>.

SUPPLEMENTARY INFORMATION:

Background: The Clean Air Scientific Advisory Committee (CASAC) was established under section 109(d)(2) of the Clean Air Act (CAA or Act) (42 U.S.C. 7409) as an independent scientific advisory committee. CASAC provides advice, information and recommendations on the scientific and technical aspects of air quality criteria and national ambient air quality standards (NAAQS) under sections 108 and 109 of the Act. The CASAC is a Federal advisory committee chartered under the Federal Advisory Committee

Act (FACA), as amended, 5 U.S.C., App. The CASAC Ozone Review Panel will comply with the provisions of FACA and all appropriate SAB Staff Office procedural policies.

Section 109(d)(1) of the CAA requires that the Agency periodically review and revise, as appropriate, the air quality criteria and the National Ambient Air Quality Standards (NAAQS) for the six "criteria" air pollutants, including ozone. EPA is currently reviewing the primary (health-based) and secondary (welfare-based) NAAQS for ozone. Accordingly, the SAB Staff Office solicited nominations for the Ozone Review Panel on June 26, 2008 (73 FR 36319-36321). Membership of the Panel is listed at: <http://yosemite.epa.gov/sab/sabpeople.nsf/WebExternalSubCommitteeRosters?OpenView&committee=CASAC&subcommittee=Ozone%20Review%20Panel>.

EPA is developing the *Integrated Review Plan (IRP)* that will serve as the framework for its review of the ozone NAAQS. The IRP presents background information, the schedule for the review, the process to be used in conducting the review, and the key policy-relevant science issues that will guide the review. The IRP also discusses the frameworks for the various documents to be prepared by the EPA as part of the review, including an integrated science assessment (ISA) and a risk/exposure assessment (REA), and policy assessment, that will be submitted for later CASAC review and public comment. The purpose of the March 30, 2009 teleconference is for the CASAC Panel to provide consultative advice on the draft *Integrated Review Plan for the National Ambient Air Quality Standards for Ozone*.

Technical Contacts: Any questions concerning EPA's *Integrated Review Plan* for ozone should be directed to Dr. David McKee, OAR, at (919) 541-5288 or mckee.dave@epa.gov.

Availability of Meeting Materials: A meeting agenda and other materials for the meeting will be placed on the CASAC Web site at <http://yosemite.epa.gov/sab/SABPRODUCT.NSF/81e39f4c0954fcb85256ead006be86e/97662d128e20ca968525746b006ce9fd!OpenDocument>. The *Integrated Review Plan for the National Ambient Air Quality Standards for Ozone* will be available at http://www.epa.gov/ttn/naaqs/standards/ozone/s_o3_index.html (see "Planning Documents").

Procedures for Providing Public Input: Interested members of the public may submit relevant written or oral

information for consideration on the topics included in this advisory activity. **Oral Statements:** To be placed on the public speaker list for the March 30, 2009 meeting, interested parties should notify Dr. Holly Stallworth, DFO, by e-mail no later than March 24, 2009. Individuals making oral statements will be limited to three minutes per speaker. **Written Statements:** Written statements for the March 30, 2009 meeting should be received in the SAB Staff Office by March 24, 2009, so that the information may be made available to the CASAC Panel for its consideration prior to this meeting. Written statements should be supplied to the DFO in the following formats: one hard copy with original signature and one electronic copy via e-mail (acceptable file format: Adobe Acrobat PDF, MS Word, WordPerfect, MS PowerPoint, or Rich Text files in IBM-PC/Windows 98/2000/XP format). Submitters are asked to provide versions of each document submitted with and without signatures, because the SAB Staff Office does not publish documents with signatures on its Web sites.

Accessibility: For information on access or services for individuals with disabilities, please contact Dr. Stallworth at the phone number or e-mail address noted above, preferably at least ten days prior to the teleconference, to give EPA as much time as possible to process your request.

Dated: February 12, 2009.

Anthony F. Maciorowski,

Deputy Director, EPA Science Advisory Board Staff Office.

[FR Doc. E9-3504 Filed 2-18-09; 8:45 am]

BILLING CODE 6560-50-P

FEDERAL ELECTION COMMISSION

[Notice 2009-5]

Filing Dates for the Illinois Special Election in the 5th Congressional District

AGENCY: Federal Election Commission.

ACTION: Corrected notice of filing dates for special election.

SUMMARY: Illinois has scheduled elections on March 3, 2009, and April 7, 2009, to fill the U.S. House of Representatives seat in the Fifth Congressional District vacated by Representative Rahm Emanuel.

Political committees required to file reports in connection with the Special Primary Election on March 3, 2009, shall file a 12-day Pre-Primary Report. Political committees required to file reports in connection with both the Special Primary and Special General

Election on April 7, 2009, shall file a 12-day Pre-Primary Report, a 12-day Pre-General Report, and a 30-day Post-General Report.

This notice provides additional information regarding the filing requirements for the Illinois 5th District Special Elections that was inadvertently omitted from the notice published in the January 21, 2009, **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Mr. Kevin R. Salley, Information Division, 999 E Street, NW., Washington, DC 20463; Telephone: (202) 694-1100; Toll Free (800) 424-9530.

SUPPLEMENTARY INFORMATION:

Principal Campaign Committees

All principal campaign committees of candidates who participate in the

Illinois Special Primary and Special General Elections shall file a 12-day Pre-Primary Report on February 19, 2009; a 12-day Pre-General Report on March 26, 2009; and a 30-day Post-General Report on May 7, 2009. (See chart below for the closing date for each report.)

All principal campaign committees of candidates participating only in the Special Primary Election shall file a 12-day Pre-Primary Report on February 19, 2009. (See chart below for the closing date for each report.)

Note that these reports are in addition to the campaign committee's quarterly filings in April and July.

Unauthorized Committees (PACs and Party Committees)

Political committees filing on a semiannual basis in 2009 are subject to

special election reporting if they make previously undisclosed contributions or expenditures in connection with the Illinois Special Primary or Special General Elections by the close of books for the applicable report(s). (See chart below for the closing date for each report.)

Political committees filing monthly that support candidates in the Illinois Special Primary or Special General Elections should continue to file according to the monthly reporting schedule.

Additional disclosure information in connection with the Illinois Special Election may be found on the FEC Web site at http://www.fec.gov/info/report_dates.shtml.

CALENDAR OF REPORTING DATES FOR ILLINOIS SPECIAL ELECTION

Report	Close of books ¹	Reg./cert. & overnight mailing deadline	Filing deadline
Quarterly Filing Political Committees Involved in Only the Special Primary (03/03/09) Must File:			
Pre-Primary	02/11/09	² 02/16/09	02/19/09
April Quarterly	03/31/09	04/15/09	04/15/09
Semiannual Filing Political Committees Involved in Only the Special Primary (03/03/09) Must File:			
Pre-Primary	02/11/09	² 02/16/09	02/19/09
Mid-Year	06/30/09	07/31/09	07/31/09
Quarterly Filing Political Committees Involved in Both the Special Primary (03/03/09) and Special General (04/07/09) Must File:			
Pre-Primary	02/11/09	² 02/16/09	02/19/09
Pre-General	03/18/09	03/23/09	03/26/09
April Quarterly	03/31/09	04/15/09	04/15/09
Post-General	04/27/09	05/07/09	05/07/09
July Quarterly	06/30/09	07/15/09	07/15/09
Semiannual Filing Political Committees Involved in Both the Special Primary (03/03/09) and Special General (04/07/09) Must File:			
Pre-Primary	02/11/09	² 02/16/09	02/19/09
Pre-General	03/18/09	03/23/09	03/26/09
Post-General	04/27/09	05/07/09	05/07/09
Mid-Year	06/30/09	07/31/09	07/31/09
Quarterly Filing Political Committees Involved in Only the Special General (04/07/09) Must File:			
Pre-General	03/18/09	03/23/09	03/26/09
April Quarterly	03/31/09	04/15/09	04/15/09
Post-General	04/27/09	05/07/09	05/07/09
July Quarterly	06/30/09	07/15/09	07/15/09
Semiannual Filing Political Committees Involved in Only the Special General (04/07/09) Must File:			
Pre-General	03/18/09	03/23/09	03/26/09
Post-General	04/27/09	05/07/09	05/07/09
Mid-Year	06/30/09	07/31/09	07/31/09

¹ The reporting period always begins the day after the closing date of the last report filed. If the committee is new and has not previously filed a report, the first report must cover all activity that occurred before the committee registered up through the close of books for the first report due.

² Notice that the registered/certified & overnight mailing deadline falls on a weekend or federal holiday. The report should be postmarked on or before that date.

Dated: February 12, 2009.
On behalf of the Commission.

Steven T. Walther,

Chairman, Federal Election Commission.
[FR Doc. E9-3476 Filed 2-18-09; 8:45 am]
BILLING CODE 6715-01-P

FEDERAL MARITIME COMMISSION

Notice of Agreements Filed

The Commission hereby gives notice of the filing of the following agreements under the Shipping Act of 1984. Interested parties may submit comments on agreements to the Secretary, Federal Maritime Commission, Washington, DC 20573, within ten days of the date this notice appears in the **Federal Register**. Copies of agreements are available through the Commission's Web site (<http://www.fmc.gov>) or contacting the Office of Agreements at (202) 523-5793 or tradeanalysis@fmc.gov.

Agreement No.: 011290-039.

Title: International Vessel Operators Hazardous Material Association Agreement.

Parties: Aliança Navegacao e Logistica Ltda.; APL Co. PTE Ltd.; A.P. Moller-Maersk A/S; Atlantic Container Line AB; Bermuda Container Line; China Shipping Container Lines Co., Ltd.; CMA CGM, S.A.; COSCO Container Lines Company Limited; Crowley Maritime Corporation; Evergreen Marine Corp. (Taiwan) Ltd.; Hamburg-Südamerikanische Dampfschiffahrts-Gesellschaft KG; Hanjin Shipping Co., Ltd.; Hapag-Lloyd AG; Horizon Lines, LLC; Hyundai Merchant Marine Co., Ltd.; Independent Container Line Ltd.; Kawasaki Kisen Kaisha Ltd.; Marine Transport Management, Inc.; Maruba SCA; Matson Navigation Company; Mitsui O.S.K. Lines, Ltd.; National Shipping Co. of Saudi Arabia; Nippon Yusen Kaisha Line; Orient Overseas Container Line Limited; Safmarine Container Lines; Seaboard Marine Ltd.; Senator Lines GmbH; Tropical Shipping & Construction Co., Ltd.; United Arab Shipping Co. S.A.G.; Yang Ming Marine Transport Corp.; and Zim Integrated Shipping Services, Ltd.

Filing Party: Wayne R. Rohde, Esq.; Sher & Blackwell LLP; 1850 M Street, NW.; Suite 900; Washington, DC 20036.

Synopsis: The amendment revises the composition of the Executive Committee and certain meeting procedures, deletes CMA CGM and United Arab Shipping Company as parties to the Agreement, updates the names and addresses of certain parties to the Agreement, changes Agreement's name, and restates the Agreement.

Agreement No.: 012043-001.

Title: MOL/APL/HMM Japan/USWC Slot Charter Agreement.

Parties: American President Lines, Ltd.; APL Co. Pte. Ltd.; Hyundai Merchant Marine; and Mitsui O.S.K. Lines, Ltd.

Filing Party: Eric C. Jeffrey, Esq.; Goodwin Procter, LLP; 901 New York Avenue, NW.; Washington, DC 20001.

Synopsis: The amendment expands the U.S. geographic scope to include ports in the range from Tacoma/Seattle, WA to Los Angeles, CA.

Dated: February 13, 2009.

By Order of the Federal Maritime Commission.

Karen V. Gregory,

Secretary.
[FR Doc. E9-3521 Filed 2-18-09; 8:45 am]
BILLING CODE 6730-01-P

FEDERAL MARITIME COMMISSION

Ocean Transportation Intermediary License; Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission an application for license as a Non-Vessel Operating Common Carrier and Ocean Freight Forwarder—Ocean Transportation Intermediary pursuant to section 19 of the Shipping Act of 1984 as amended (46 U.S.C. Chapter 409 and 46 CFR part 515).

Persons knowing of any reason why the following applicants should not receive a license are requested to contact the Office of Transportation Intermediaries, Federal Maritime Commission, Washington, DC 20573.

Non-Vessel Operating Common Carrier Ocean Transportation Intermediary Applicants

Lavinstar Logistics, Inc., 485-B Route 1, Suite 310, Iselin, NJ 08830. Officer: Martin J. Aranha, President (Qualifying Individual).

Non-Vessel Operating Common Carrier and Ocean Freight Forwarder Transportation Intermediary Applicants

Royal Pacific Shipping Co., 58 Leslie Street, Newark, NJ 07108. Officer: Roydel Nutty, Vice President (Qualifying Individual).

Radiant Global Logistics, Inc. dba Airgroup Seafreight, 1227 120th Ave., NE., Bellevue, WA 98005. Officer: Michael Von Loesch, Vice President (Qualifying Individual).

Dated: February 13, 2009.

Karen V. Gregory,

Secretary.
[FR Doc. E9-3519 Filed 2-18-09; 8:45 am]
BILLING CODE 6730-01-P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisition of Shares of Bank or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the office of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than March 4, 2009.

A. Federal Reserve Bank of Atlanta (Steve Foley, Vice President) 1000 Peachtree Street, N.E., Atlanta, Georgia 30309:

1. *Michael Todd Etheridge*, Williston, Florida, to acquire voting shares of Willston Holding Company, and thereby indirectly acquire voting shares of The Perkins State Bank, both of Williston, Florida.

Board of Governors of the Federal Reserve System, February 12, 2009.

Robert deV. Frierson,

Deputy Secretary of the Board.
[FR Doc. E9-3418 Filed 2-18-09; 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 March 13, 2009.

A. Federal Reserve Bank of Atlanta (Steve Foley, Vice President) 1000 Peachtree Street, N.E., Atlanta, Georgia 30309:

1. *First State Bank of the Florida Keys Holding Company*, Key West, Florida, to become a bank holding company by acquiring 100 percent of the voting shares of First State Bank of the Florida Keys, Key West, Florida.

B. Federal Reserve Bank of Dallas (E. Ann Worthy, Vice President) 2200 North Pearl Street, Dallas, Texas 75201-2272:

1. *East Texas Bancorp, Inc.*, Longview, Texas, to merge with Lone Star Bancshares, Inc., Lone Star, Texas, and Hickory Hill Bancshares, Inc., Avinger, Texas, and thereby indirectly acquire The First State Bank, Avinger, Texas, and The Lone Star State Bank, Inc., Lone Star, Texas.

Board of Governors of the Federal Reserve System, February 12, 2009.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. E9-3417 Filed 2-18-09; 8:45 am]

BILLING CODE 6210-01-S

FEDERAL RESERVE SYSTEM

Notice of Proposals to Engage in Permissible Nonbanking Activities or to Acquire Companies that are Engaged in Permissible Nonbanking Activities

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y (12 CFR Part 225) to engage *de novo*, or to acquire or control voting securities or assets of a company, including the companies listed below, that engages either directly or through a subsidiary or other company, in a nonbanking activity that is listed in § 225.28 of Regulation Y (12 CFR 225.28) or that the Board has determined by Order to be closely related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

Each notice is available for inspection at the Federal Reserve Bank indicated. The notice also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether the proposal complies with the standards of section 4 of the BHC Act. 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 the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than March 4, 2009.

A. Federal Reserve Bank of Chicago (Burl Thornton, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690-1414:

1. *Barlow Banking Corporation*, Iowa Falls, Iowa, to continue to engage in extending credit and servicing loans, pursuant to section 225.28(b)(1) of Regulation Y.

Board of Governors of the Federal Reserve System, February 12, 2009.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. E9-3416 Filed 2-18-09; 8:45 am]

BILLING CODE 6210-01-S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Eunice Kennedy Shriver National Institute of Child Health & Human Development; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Child Health and Human Development Special Emphasis Panel; Pelvic Floor Disorder.

Date: March 13, 2009.

Time: 7 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: Marriott Bethesda North Hotel and Conference Ctr., 5701 Marinelli Road, Bethesda, MD.

Contact Person: Dennis E. Leszczynski, PhD, Scientific Review Administrator, Division of Scientific Review, National Institute of Child Health and Human Development, NIH, 6100 Executive Blvd., Rm. 5b01, Bethesda, MD 20892, (301) 435-6884, leszczd@mail.nih.gov.

(Catalogue of Federal Domestic Assistance Program Nos. 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research; 93.209, Contraception and Infertility Loan Repayment Program, National Institutes of Health, HHS)

Dated: February 11, 2009.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E9-3441 Filed 2-18-09; 8:45 am]

BILLING CODE 4140-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Opportunity for Cosponsorship of Educational Program

AGENCY: Department of Health and Human Services, Office of the Secretary.

ACTION: Notice.

SUMMARY: The Office of the Assistant Secretary for Preparedness and Response (ASPR), Office of Preparedness and Emergency Operations (OPEO) announces the opportunity to cosponsor a national tactical medicine education program to train medical personnel serving on military, Federal, state and local law enforcement special response teams. Potential cosponsors must have a demonstrated interest in the subject matter and be willing to contribute substantively to the cosponsored activity.

DATES: To receive consideration, an expression of interest to participate as a cosponsor must be received by the close of business on March 6, 2009. Requests will meet the deadline date if they are either (1) received on or before the deadline date; or (2) postmarked on or before the deadline date.

ADDRESSES: Expressions of interest in a cosponsorship should be sent Gregory Smith, Educational Program Coordinator, 330 Independence Avenue SW., Room G-644, Washington, DC 20201; Ph: (202) 205-8166. Expressions of interest may be faxed; a fax number will be provided to callers on request to ensure receipt. Expressions of interest may also be submitted by electronic mail to gregory.smith@hhs.gov.

FOR FURTHER INFORMATION CONTACT: Gregory Smith, Educational Program Coordinator, 330 Independence Avenue, SW., Room G-644, Washington, DC 20201; Ph: (202) 205-8166; e-mail: gregory.smith@hhs.gov.

SUPPLEMENTARY INFORMATION:

Description

The Office of the ASPR was created by section 2811 of the Public Health Service Act. Among other functions within ASPR, the Office of Preparedness and Emergency Operations (OPEO) is responsible for participating in training and exercises to ensure national preparedness to respond to domestic and international public health and medical threats and emergencies, such as acts of terrorism. ASPR/OPEO announces the opportunity to cosponsor a national tactical medicine education program to train medical personnel serving on military, Federal, state and local law enforcement special response teams. This national program will initially be offered on a quarterly basis in the greater Washington, DC area. Each course will consist of a one-week block of instruction. In an age of terrorism and global threats, the purpose of the program is to provide high-quality, affordable didactic and practical training to medical personnel who

provide life-saving medical support to law enforcement special response teams during critical incident response.

ASPR/OPEO seeks a cosponsor to provide expertise in the development and maintenance of the program curriculum, its infrastructure, and the strategic communication necessary to promote and deliver the educational program effectively on an ongoing basis. The cosponsorship will involve course curriculum development, facilitation through internet website design and maintenance, strategic messaging, financial management of course fees, procurement of needed course supplies and equipment, oversight for pre-course logistics (e.g., coordination of instructor travel and lodging) and participation in the preparation of necessary educational material. The cosponsor would develop the project in conjunction with ASPR/OPEO Staff. The cosponsor will be able to charge registration fees to recover its share of the costs of the event. Registration fees may be set at an amount no higher than necessary to recover such costs.

Requirements of Cosponsorship

The ASPR/OPEO is seeking a cosponsor to partner in ways that accord with its particular circumstances. For example, an entity might offer to cosponsor the following proposed program activities in order to facilitate course delivery on a quarterly basis in conjunction with the ASPR/OPEO Staff:

- (1) Participate in the development of the program curriculum;
- (2) Participate in the design and maintenance of a website that promotes the course, provides upcoming course information, and provides a platform for course registration;
- (3) Participate in financial management for the course by maintaining collected registration fees in an identified fund, providing ongoing transparency in financial accountability, and participating in the dispersal of such funding for procurement of selected course supplies, mailings and equipment;
- (4) Participate in course promotion activities, press releases and other strategic messaging that recognizes the cosponsorship;
- (5) Coordinate the course registration and student enrollment process;
- (6) Coordinate pre-course logistics (e.g., travel and lodging for course instructors into the DC area);
- (7) Assist with the preparation and distribution of course educational materials;
- (8) Assist with the development and maintenance of course-related databases

(e.g., lists of class participants, educational survey response data).

Availability of Funds

Limited Federal funding is available for this cosponsorship. The cosponsor may charge student registration fees to recoup its expenses for participation in the program. Registration fees may be set at an amount no higher than necessary to recover such costs. Any additional funds incidentally generated above the cosponsor's costs must be directed back into future sessions of the course for improved course delivery, supplies, equipment and other course-related necessities. A cosponsor agrees not to use the program as a vehicle to sell or promote products or services. Any incidental promotional materials cannot imply that HHS/ASPR/OPEO endorses any products or services.

Eligibility for Cosponsorship

To be eligible, a requester must: (1) Have a demonstrated interest and understanding of the basic concepts involved in health care delivery under austere, tactical, military or disaster conditions; (2) participate substantively in the cosponsored activity (not just provide funding or logistical support); (3) have an organizational or corporate mission that is not inconsistent with the public health and safety mission of the Department; and (4) agree to sign a cosponsorship agreement with ASPR/OPEO which will set forth the details of the cosponsored activity.

Cosponsorship Proposal

Each cosponsorship proposal should contain a description of: (1) The entity or organization; (2) its background in training and educational activities; (3) its proposed involvement in the cosponsored activity to include evidence of a substantive interest.

Evaluation Criteria

After engaging in exploratory discussions with potential cosponsors that respond to this notice, the cosponsor will be selected by representatives of ASPR/OPEO using the following criteria:

- (1) Requester's qualifications and capability to fulfill cosponsorship responsibilities;
- (2) Requester's creativity for enhancing the medium for program messages;
- (3) Requester's track record for facilitating the delivery of educational programs or other similar projects;
- (4) Requester's ability to maintain sustained involvement in this ongoing program.

Dated: February 13, 2009.

W. Craig Vanderwagen,

Assistant Secretary for Preparedness and Response, U.S. Department of Health and Human Services.

[FR Doc. E9-3479 Filed 2-18-09; 8:45 am]

BILLING CODE 4150-37-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration on Aging

Agency Information Collection Activities; Proposed Collection; Comment Request; State Annual Long-Term Care Ombudsman Report and Instructions for Older Americans Act Title VII

AGENCY: Administration on Aging, HHS.
ACTION: Notice.

SUMMARY: The Administration on Aging (AoA) is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act of 1995 (the PRA), Federal agencies are required to publish notice in the *Federal Register* concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on the information collection requirements relating to State Annual Long-Term Care Ombudsman Report and Instructions for Older Americans Act Title VII.

DATES: Submit written or electronic comments on the collection of information by April 20, 2009.

ADDRESSES: Submit electronic comments on the collection of information to: sue.wheaton@aoa.gov.

Submit written comments on the collection of information to: Administration on Aging, Washington, DC 20201. Attention: Sue Wheaton.

FOR FURTHER INFORMATION CONTACT: Sue Wheaton, by telephone: (202) 357-3587 or by e-mail: sue.wheaton@aoa.gov.

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501-3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. "Collection of information" is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency request or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal

agencies to provide a 60-day notice in the *Federal Register* concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, AoA is publishing notice of the proposed collection of information set forth in this document. With respect to the following collection of information, AoA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of AoA's functions, including whether the information will have practical utility; (2) the accuracy of AoA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques when appropriate, and other forms of information technology.

Under section 712(c), and section 712(h)(1)-(3) of the Older Americans Act, as amended, states are required to provide information on ombudsmen activities to AoA, which AoA is then required to present to Congress. The reporting system, the National Ombudsman Reporting System (NORS), was developed in response to these directives and other needs pertaining to the Long Term Care Ombudsman Program and approved by the Office of Management and Budget for use for the first time in FY 1995-96; it was extended a second time with slight modifications for use in FY 1997-2001 and extended for the third time with no change for use from FY 2002-2006. It was extended, with modifications, a fourth time for use from FY 2007-2008. This current (fifth) request is to extend, with no modifications, use of the existing State Annual Long-Term Care Ombudsman Report (and Instructions) for use from FY 2009-2011. The current form and instructions are posted on the AoA Web site at:

http://www.aoa.gov/prof/aoaprogram/elder_rights/LTCombudsman/NORS/Form_final.doc

http://www.aoa.gov/prof/aoaprogram/elder_rights/LTCombudsman/NORS/Instructions_Final.doc

http://www.aoa.gov/prof/aoaprogram/elder_rights/LTCombudsman/NORS/Complaint%20Code%20Definition%20Final.doc

AoA estimates the burden of this collection of information as follows: Approximately one and one-half hour

per respondent, with 52 State Agencies on Aging responding annually for a total of 78 hours per year.

Dated: February 13, 2009.

Edwin L. Walker,

Acting Assistant Secretary for Aging.

[FR Doc. E9-3522 Filed 2-18-09; 8:45 am]

BILLING CODE 4154-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60-Day-09-09AU]

Proposed Data Collections Submitted for Public Comment and Recommendations

In compliance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the Centers for Disease Control and Prevention (CDC) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the data collection plans and instruments, call 404-639-5960 or send comments to Maryam Daneshvar, CDC Reports Clearance Officer, 1600 Clifton Road, MS-D74, Atlanta, GA 30333 or send an e-mail to omb@cdc.gov.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Written comments should be received within 60 days of this notice.

Proposed Project

Minority HIV/AIDS Research Initiative (MARI) Project—Preventing HIV Risk Behaviors among Hispanic Adolescents—New—National Center for HIV/AIDS, Viral Hepatitis, Sexually Transmitted Diseases, and Tuberculosis Elimination Programs (NCHHSTP), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

CDC is planning to interview Hispanic adolescents and their parents at two high schools in Miami-Dade County to facilitate the development of targeted and culturally-appropriate HIV prevention materials for Hispanic youth in Miami-Dade County. The purpose of the proposed study is to assess the efficacy of Streamlined Familias Unidas, a 5-session version of a longer efficacious, parent-centered prevention intervention developed specifically for Hispanic families. 240 Hispanic adolescents and their primary caregivers (480 total participants) from two Miami-Dade County public high schools will be recruited and randomized into two groups: (1) The streamlined 5-session

Familias Unidas intervention group, and (2) a group that receives routine information about HIV from the high schools. Four times over 2 years, both groups will respond to computerized questionnaires that explore family function, sexual behaviors, etc. These assessment questionnaires will be computer-based (ACASI). The assessments are for the purpose of developing and improving HIV prevention materials and interventions that are culturally appropriate to the Hispanic population in Miami-Dade County. Family functioning, substance use, sexual behaviors, behavior problems, and community values will inform HIV intervention programs in this community.

This study will address some of the goals of CDC's "CDC HIV Prevention Strategic Plan: Extended Through 2010". CDC plans to meet specific goals by increasing the number of behavior prevention interventions proven effective for Hispanic adolescents, and, increasing the number of Hispanic adolescents who consistently engage in behaviors that reduce risk for acquiring HIV. Additionally, the study data will provide important information that will aid in developing and improving HIV prevention interventions for Hispanic adolescents and their families.

Questionnaires will take from approximately 45 min. (caregivers) to 60 minutes (adolescents) to complete.

There is no cost to respondents other than their time.

ESTIMATE OF ANNUALIZED BURDEN TABLE

Type of respondents and questionnaire	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden (in hours)
Hispanic Adolescent:				
Screening	400	1	3/60	20
ACASI—Baseline	240	1	1	240
ACASI—4-month follow-up	228	1	1	228
ACASI—12 month follow-up	217	1	1	217
Primary Caregiver of Hispanic Adolescent:				
Screening	400	1	3/60	20
ACASI—Baseline	240	1	45/60	180
ACASI—4-month follow-up	228	1	45/60	171
ACASI—12 month follow-up	217	1	45/60	163
Total				1239

Dated: February 12, 2009.

Maryam I. Daneshvar,

Acting Reports Clearance Officer, Centers for Disease Control and Prevention.

[FR Doc. E9-3493 Filed 2-18-09; 8:45 am]

BILLING CODE 4163-18-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day-09-09AP]

Proposed Data Collections Submitted for Public Comment and Recommendations

In compliance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the Centers for Disease Control and Prevention (CDC) will publish periodic summaries of proposed projects. To request more information on the

proposed projects or to obtain a copy of the data collection plans and instruments, call 404-639-5960 and send comments to Maryam I. Daneshvar, CDC Acting Reports Clearance Officer, 1600 Clifton Road, MS-D74, Atlanta, GA 30333 or send an e-mail to omb@cdc.gov.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Written comments should be received within 60 days of this notice.

Proposed Project

The National Intimate Partner and Sexual Violence Surveillance System (NISVSS), New, National Center for Injury Prevention and Control (NCIPC), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

The health burden of Intimate Partner Violence (IPV), Sexual Violence (SV) and stalking are substantial. Approximately 1.5 million women and 834,700 men are raped and/or physically assaulted by an intimate partner each year. Women are more likely than men to be victimized by almost every type of IPV, including rape, physical assault, and stalking by a current or former intimate partner. The health care costs of IPV exceed \$5.8 billion each year, nearly \$3.9 billion of which is for direct medical and mental health care services.

SV also has a profound and long-term impact on the physical and mental health of the victim. Existing estimates of lifetime experiences of rape range

from 15% to 36% for females. Sexual violence against men, although less prevalent, is also a public health problem; approximately 1 in 6 women and 1 in 33 men have experienced an attempted or completed rape in their lifetime. Over 302,000 women and 92,000 men were raped in the past 12 months. Thirty percent of rape victims experience major depressions at some time in their lives; 33% of victimized women and 24.2% of victimized men are counseled by a health professional; 31% develop post traumatic stress disorder; 33% contemplate suicide; and 13% attempt suicide.

Each year, approximately 1 million women and 371,000 men in the United States are stalked. There is a strong link between stalking and other forms of violence in intimate relationships; 81% of women who were stalked by a current or former intimate partner were also physically assaulted by that partner and 31% were sexually assaulted by that partner. Furthermore, 76% of female victims of intimate partner homicides were stalked by their partners before they were killed.

Currently, the United States lacks a national data source that systematically and routinely collects valid and reliable information on the magnitude and trends in IPV, SV and stalking. Such a system is needed to (1) Help formulate

public policies and prevention strategies related to IPV, SV and stalking; (2) guide and evaluate progress in reducing the huge health and social burden associated with IPV, SV and stalking; and (3) improve the effectiveness of federal agencies responding to IPV, SV and stalking.

In order to address this important public health problem, CDC plans to develop a national surveillance system that will generate national and state level estimates of IPV, SV and stalking. A total of 20,948 eligible households will be screened; out of the households screened 10,948 are estimated to consent or agree to participate and 10,000 are estimated to complete the survey each year. The survey will be conducted among English and/or Spanish speaking male and female adults (18 years and older) living in the United States. In addition, special populations are also being targeted such as an oversample of American Indian/ Alaska Native populations, female active duty military service members (first year of data collection only), and female spouses of married male active duty military service members (first year of data collection only).

Each year, NISVSS will provide precise and stable annual prevalence estimates for IPV, SV, and stalking victimization at the national level. As

data collection continues in subsequent years, sample sizes will increase and stable state-level lifetime prevalence data will also be available for both women and men in all states. All information will be collected in a 20–25 minute anonymous interview conducted over the telephone, using computer-assisted telephone interviewing (CATI) software. The use of CATI will reduce respondent burden, reduce coding errors, and increase efficiency and data quality. Questions will be asked about all forms of IPV victimization (including physical aggression, psychological aggression, and sexual violence); all forms of SV victimization by any perpetrator (including unwanted sexual situations, abusive sexual contact, and forced/nonconsensual sex [completed and attempted]); and stalking victimization by any perpetrator. NISVSS will gather information regarding experiences that occurred across the lifespan and within the 12 and 36 months preceding the survey.

Such data will help inform public policies and prevention strategies at both the national and state levels and will help guide and evaluate progress toward reducing the substantial health and social burden associated with IPV, SV, and stalking.

There are no costs to respondents other than their time.

TOTAL ESTIMATED ANNUALIZED BURDEN TABLE

Type of respondent	Form name	Number of responses	Number of responses per respondent	Average burden per response (in hours)	Total burden (in hours)
Households	Screened	20,948	1	3/60	1,047
	Surveyed	10,000	1	25/60	4,167
Total	5,214

Dated: February 6, 2009.

Maryam I. Daneshvar,

Acting Reports Clearance Officer, Centers for Disease Control and Prevention.

[FR Doc. E9-3495 Filed 2-18-09; 8:45 am]

BILLING CODE 4163-18-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA-2009-N-0664]

Circulatory System Devices Panel of the Medical Devices Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). The meeting will be open to the public.

Name of Committee: Circulatory System Devices Panel of the Medical Devices Advisory Committee.

General Function of the Committee: To provide advice and recommendations to the agency on FDA's regulatory issues.

Date and Time: The meeting will be held on March 18, 2009, from 8 a.m. to 5:30 p.m.

Location: Hilton Washington DC North/Gaithersburg, Salons A, B, and C, 620 Perry Pkwy., Gaithersburg, MD.

Contact Person: James Swink, Center for Devices and Radiological Health (HFZ-450), Food and Drug Administration, 9200 Corporate Blvd., Rockville, MD 20850, 240-276-4050, or FDA Advisory Committee Information Line, 1-800-741-8138 (301-443-0572 in the Washington, DC area), code 3014512625. Please call the Information Line for up-to-date information on this meeting. A notice in the **Federal Register** about last minute modifications that impact a previously announced advisory committee meeting cannot always be published quickly enough to provide timely notice. Therefore, you should always check the agency's Web site and call the appropriate advisory committee hot line/phone line to learn

about possible modifications before coming to the meeting.

Agenda: The committee will discuss, make recommendations, and vote on a premarket approval application, sponsored by TherOx, Inc., for the TherOx Aqueous Oxygen System (AO System). The system is intended for use in acute myocardial infarction (AMI) patients, who have undergone successful revascularization less than or equal to 6 hours from symptom onset. These patients were randomized to AO Therapy or not. The endpoint is reduction in the final size of the infarct. The system draws blood from the patient, hyperoxygenates it with the AO cartridge component of the system, and reinfuses the blood via the infusion catheter directly to the infarction site of the heart. This therapy is intended to be performed for 90 minutes post percutaneous coronary intervention/stenting.

FDA intends to make background material available to the public no later than 2 business days before the meeting. If FDA is unable to post the background material on its Web site prior to the meeting, the background material will be made publicly available at the location of the advisory committee meeting, and the background material will be posted on FDA's Web site after the meeting. Background material is available at <http://www.fda.gov/ohrms/dockets/ac/acmenu.htm>, click on the year 2009 and scroll down to the appropriate advisory committee link.

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person on or before March 4, 2009. Oral presentations from the public will be scheduled approximately 30 minutes at the beginning of committee deliberations and approximately 30 minutes near the end of the deliberations. Those desiring to make formal oral presentations should notify the contact person and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation on or before February 25, 2009. Time allotted for each presentation may be limited. If the number of registrants requesting to speak is greater than can be reasonably accommodated during the scheduled open public hearing session, FDA may conduct a lottery to determine the speakers for the scheduled open public hearing session. The contact person will notify interested persons

regarding their request to speak by February 26, 2009.

Persons attending FDA's advisory committee meetings are advised that the agency is not responsible for providing access to electrical outlets.

FDA welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact AnnMarie Williams, Conference Management Staff, at 240-276-8932, at least 7 days in advance of the meeting.

FDA is committed to the orderly conduct of its advisory committee meetings. Please visit our Web site at <http://www.fda.gov/oc/advisory/default.htm> for procedures on public conduct during advisory committee meetings.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: February 10, 2009.

Randall W. Lutter,

Deputy Commissioner for Policy.

[FR Doc. E9-3488 Filed 2-18-09; 8:45 am]

BILLING CODE 4160-01-S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel, Sexually Transmitted Infections Cooperative Research Centers.

Date: March 3-5, 2009.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: The Crowne Plaza Hotel, 8777 Georgia Avenue, Silver Spring, MD 20910.

Contact Person: Michelle M. Timmerman, PhD, Scientific Review Officer, Scientific Review Program, NIH/NIAID/DHHS, Room 3147, 6700B Rockledge Drive, MSC-7616, Bethesda, MD 20892-7616, 301-451-4573, timmermanm@niaid.nih.gov.

NAME OF COMMITTEE: National Institute of Allergy and Infectious Diseases Special Emphasis Panel, Review of Unsolicited P01 Application.

Date: March 10, 2009.

Time: 11 a.m. to 2 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6700B Rockledge Drive, Bethesda, MD 20817 (Telephone Conference Call).

Contact Person: Eleazar Cohen, PhD, Scientific Review Officer, Scientific Review Program, Division of Extramural Activities, NIAID/NIH/DHHS, Room 3129, 6700B Rockledge Drive, Bethesda, MD 20892, (301) 435-3564, ec17w@nih.gov.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel, Review of Unsolicited P01 Application.

Date: March 12, 2009.

Time: 11 a.m. to 2:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6700B Rockledge Drive, Bethesda, MD 20817 (Telephone Conference Call).

Contact Person: Eleazar Cohen, PhD, Scientific Review Officer, Scientific Review Program, Division of Extramural Activities, NIAID/NIH/DHHS, Room 3129, 6700B Rockledge Drive, Bethesda, MD 20892, (301) 435-3564, ec17w@nih.gov.

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: February 11, 2009.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E9-3437 Filed 2-18-09; 8:45 am]

BILLING CODE 4140-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Center for Substance Abuse Treatment; Notice of Meeting

Pursuant to Public Law 92-463, notice is hereby given of the meeting of the Center for Substance Abuse Treatment (CSAT) National Advisory Council on March 19, 2009.

The meeting is open to the public and will include discussion of the Center's policy issues, and current administrative, legislative, and program developments.

Attendance by the public will be limited to space available. Public comments are welcome. Please communicate with the CSAT Council's Designated Federal Official, Ms. Cynthia Graham (see contact information below), to make arrangements to attend, comment or to request special accommodations for persons with disabilities.

Substantive program information, a summary of the meeting, and a roster of Council members may be obtained as soon as possible after the meeting, either by accessing the SAMHSA Committee Web site, <http://www.nac.samhsa.gov/CSAT/csatnac.aspx>, or by contacting Ms. Graham. The transcript for the meeting will also be available on the SAMHSA Committee Web site within three weeks after the meeting.

Committee Name: Substance Abuse and Mental Health Services Administration, CSAT National Advisory Council.

Date/Time/Type: March 19, 2009, From 8:30 a.m.–5 p.m.: Open.

Place: 1 Choke Cherry Road, Sugarloaf and Seneca Conference Rooms, Rockville, Maryland 20857.

Contact: Cynthia Graham, M.S., Designated Federal Official, SAMHSA/CSAT National Advisory Council, 1 Choke Cherry Road, Room 5–1036, Rockville, MD 20857, Telephone: (240) 276–1692, FAX: (240) 276–1690, e-mail: cynthia.graham@samhsa.hhs.gov.

Toian Vaughn,

Committee Management Officer, Substance Abuse and Mental Health, Services Administration.

[FR Doc. E9–3469 Filed 2–18–09; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[USCG–2009–0065]

National Offshore Safety Advisory Committee

AGENCY: Coast Guard, DHS.

ACTION: Notice of open teleconference meeting.

SUMMARY: On February 13, 2009, the Coast Guard published a **Federal Register** notice announcing a teleconference meeting of the National Offshore Safety Advisory Committee (NOSAC). NOSAC will discuss data on foreign vessels arriving on the U.S. Outer Continental Shelf from abroad as well as other items that it may consider. This notice supplements that original teleconference meeting notice.

ADDRESSES: The Committee will meet, via telephone conference, on February

26, 2009. Members of the public interested in participating in the teleconference may contact Commander P.W. Clark at 202–372–1410 for call in information or they may participate in person by coming to Room 1303, U.S. Coast Guard Headquarters Building, 2100 Second Street, SW., Washington, DC 20593. As there are a limited number of teleconference lines, public participation will be on a first come basis. Members of the public may submit written comments to Commander P.W. Clark, Designated Federal Officer of NOSAC, Commandant (CG–5222), 2100 Second Street, SW., Washington, DC 20593–0001; or by fax to 202–372–1926. Comments should reach Commander P.W. Clark on or before February 25, 2009. The teleconference meeting notice, and this supplemental notice is available on our online docket, USCG–2009–0065, at <http://www.regulations.gov>.

FOR FURTHER INFORMATION CONTACT:

Commander P.W. Clark, Designated Federal Officer of NOSAC, or Mr. Jim Magill, Assistant Designated Federal Officer, telephone 202–372–1414, fax 202–372–1926.

SUPPLEMENTARY INFORMATION:

Notice of this teleconference meeting is given under the Federal Advisory Committee Act, 5 U.S.C. App. 2. The teleconference meeting agenda was published as part of the original notice on February 13, 2009, which can be found in the **Federal Register** at 72 FR 7243. The Federal Advisory Committee Act requires **Federal Register** publication 15 days prior to a meeting held in accordance with the Act. The original NOSAC teleconference meeting announcement was published in the **Federal Register** 13 days prior to the meeting due to delays in the renewal of the NOSAC Charter. Further, due to scheduling conflicts, we were unable to delay this teleconference to a date past February 26, 2009.

The Coast Guard has made all known interested parties aware of the teleconference meeting with sufficient time for planning purposes.

M.L. Blair,

Acting Director of Commercial Regulations and Standards.

[FR Doc. E9–3558 Filed 2–18–09; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

[CIS No. 2468–09; DHS Docket No. USCIS–2009–0001; RIN No. 1615–ZA81]

Announcement of a Stakeholder Meeting on the E-Verify Program in Arizona

AGENCY: U.S. Citizenship and Immigration Services, DHS.

ACTION: Notice of meeting.

SUMMARY: The E-Verify Program is a free employment eligibility confirmation system operated jointly by U.S. Citizenship and Immigration Services (USCIS) and the Social Security Administration. It is designed to provide the best means available for determining employment eligibility of new hires and the validity of their Social Security numbers. The E-Verify Program allows participating employers to electronically confirm the employment eligibility of newly hired employees to help maintain a stable, legal workforce. The purpose of this notice is to announce a stakeholder meeting on the E-Verify Program. This meeting will help USCIS identify strengths and weaknesses of the E-Verify Program's implementation under Arizona law from multiple perspectives and will help assist the evaluation staff in prioritizing future research topics.

DATE AND TIME: The meeting will be held on Monday, March 9, 2009, from 9 a.m. to 5 p.m.

ADDRESSES: The meeting will be held at the Pointe Hilton Squaw Peak, 7677 North 16th Street, Phoenix, Arizona 85020.

FOR FURTHER INFORMATION CONTACT: To RSVP for the meeting: Dr. Denise Glover, Westat, 1650 Research Boulevard, Rockville, MD 20850. Telephone: (301) 251–2269; Fax: (301) 294–3992. E-mail: deniseglover@westat.com.

USCIS contact: Sara Speckhard, Research and Evaluation Division, Office of Policy and Strategy, U.S. Citizenship and Immigration Services, 20 Massachusetts Avenue, NW., Washington, DC 20529–2140 Telephone: (202) 272–1470. E-mail: sara.speckhard@dhs.gov.

SUPPLEMENTARY INFORMATION:

Background

Section 403—Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA)

On September 15, 1997, the Immigration and Naturalization Service

(INS) published a notice in the **Federal Register** describing pilot programs that are required by section 403 of IIRIRA. On December 20, 2004, U.S. Citizenship and Immigration Services (USCIS) announced the extension and expansion of one of these programs, the Basic Pilot, which was renamed the E-Verify Program in 2007. The E-Verify Program permits participating employers to electronically verify the employment authorization of newly hired employees against Social Security Administration and, in some cases, Department of Homeland Security, databases.

Program Evaluations

Section 405 of IIRIRA required that evaluation reports on the verification pilot programs be completed and sent to Congress. Those evaluation reports were submitted to Congress in 2001 and 2002. Since that time the former INS and now USCIS have continued to evaluate and report on the electronic employment verification program to ensure that it is meeting the E-Verify Program's goals of reducing unauthorized employment, reducing verification-related discrimination, protecting employee privacy and confidentiality, and minimizing employer burden. USCIS is currently evaluating the impact of expanded participation in the E-Verify Program under Arizona law. This meeting is being held as part of the evaluation to help the evaluators identify strengths and weaknesses of the E-Verify Program's implementation under Arizona law from multiple perspectives, obtain insights into the issues and impacts that might arise with implementation of E-Verify in a mandatory use environment, suggest how those issues might be addressed, and prioritize future research topics. USCIS understands that expanded E-Verify Program participation in Arizona relates to the enactment of certain requirements of Arizona State law; the purpose of the evaluation and this stakeholder meeting are to better understand effects on the E-Verify Program from the Federal perspective, rather than to analyze, construe or take a position as to the scope or merits of any particular provision of Arizona law.

Summary of Agenda

- Introductions.
- Update on the E-Verify Program.
- Overview of the fiscal year (FY) 2008 evaluation.
- Evaluation goals for FY 2009.
- Breakout group meetings to address topics such as addressing identity fraud, understanding and resolving tentative nonconfirmations, identifying program strengths and recommending program

improvements focusing on specific types of employers (*e.g.*, designated agents, employers using designated agents, employment and temporary help agencies, small employers, multi-site employers, and companies with large concentrations of immigrant workers).

- Discussion of output from individual breakout groups.
- Questions and comments.

Public Participation

The meeting is open to the public, but advance notice of attendance is requested to ensure adequate seating. Persons planning to attend should notify Dr. Glover, by February 27, 2009, at: Telephone: 301-251-2269; Fax: 301-294-3992, or e-mail at deniseglover@westat.com. Individuals who plan to attend and require special assistance, such as sign language interpretation or other reasonable accommodations, should contact Dr. Glover at least 72 hours prior to the meeting.

Dated: February 13, 2009.

Michael Aytes,

Acting Deputy Director, U.S. Citizenship and Immigration Services.

[FR Doc. E9-3543 Filed 2-17-09; 11:15 am]

BILLING CODE 9111-97-P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS-R1-FHC-2009-N0039; 81331-1334-8TWG-W4]

Trinity Adaptive Management Working Group

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of meeting; correction of dates.

SUMMARY: The Trinity Adaptive Management Working Group (TAMWG) affords stakeholders the opportunity to give policy, management, and technical input concerning Trinity River (California) restoration efforts to the Trinity Management Council (TMC). This notice corrects the dates for our recently announced TAMWG meeting, which is open to the public.

DATES: TAMWG will meet from 1 p.m. to 5 p.m. on Wednesday, March 18, 2009, and from 8 a.m. to 5 p.m. on Thursday, March 19, 2009.

ADDRESSES: The meeting will be held at the Weaverville Victorian Inn, 1709 Main St., 299 West, Weaverville, CA 96093.

FOR FURTHER INFORMATION CONTACT: Randy A. Brown of the U.S. Fish and

Wildlife Service, 1655 Heindon Road, Arcata, CA 95521; telephone: (707) 822-7201. Randy A. Brown is the TAMWG Designated Federal Officer. For background information and questions regarding the Trinity River Restoration Program (TRRP), please contact Mike Hamman, Executive Director, Trinity River Restoration Program, P.O. Box 1300, 1313 South Main Street, Weaverville, CA 96093; telephone: (530) 623-1800; e-mail: mhamman@mp.usbr.gov.

SUPPLEMENTARY INFORMATION: Under section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. App.), we recently announced an upcoming meeting of the TAMWG in a February 9, 2009, **Federal Register** notice (74 FR 6415). After publishing that notice, we have had to change the dates of this meeting. Please see the **DATES** section for our corrected dates.

Primary objectives and agenda items of the meeting remain the same. See 74 FR 6415 for the agenda.

Dated: February 12, 2009.

Randy A. Brown,

Designated Federal Officer, Arcata Fish and Wildlife Office, Arcata, CA.

[FR Doc. E9-3517 Filed 2-18-09; 8:45 am]

BILLING CODE 4310-55-P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Indian Gaming

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of Approved Tribal-State Class III Gaming Amendment.

SUMMARY: This notice publishes an approval of the Amended and Restated Tribal-State Compact for Regulation of Class III Gaming between the Confederated Tribes of the Umatilla Indian Reservation and the State of Oregon.

DATES: *Effective Date:* February 19, 2009.

FOR FURTHER INFORMATION CONTACT: Paula Hart, Acting Director, Office of Indian Gaming, Office of the Deputy Assistant Secretary—Policy and Economic Development, Washington, DC 20240, (202) 219-4066.

SUPPLEMENTARY INFORMATION: Under Section 11 of the Indian Gaming Regulatory Act of 1988 (IGRA) Public Law 100-497, 25 U.S.C. 2710, the Secretary of the Interior shall publish in the **Federal Register** notice of approved Tribal-State compacts for the purpose of engaging in Class III gaming activities

on Indian lands. The Amended and Restated Tribal-State Compact for Regulation of Class III Gaming between the Confederated Tribes of the Umatilla Indian Reservation and the State of Oregon changes various terminologies, such as replacing "ordinance" with "code"; adjusts the major procurement limits; raises the maximum wager limit; and expands the licensing criteria.

Dated: February 2, 2009.

George T. Skibine,

Deputy Assistant Secretary for Policy and Economic Development.

[FR Doc. E9-3501 Filed 2-18-09; 8:45 am]

BILLING CODE 4310-4N-P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLCAN00000.L18200000XZ0000]

Notice of Resource Advisory Council Vacancy and Call for Nominations: Northeast California Resource Advisory Council, Susanville, CA

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: Pursuant to authorities in the Federal Advisory Committees Act (Pub. L. 92-463) and the Federal Land Policy and Management Act (Pub. L. 94-579), the Bureau of Land Management (BLM) is seeking nominations to fill a vacant seat on the Northeast California Resource Advisory Council (RAC). The person selected to fill the vacancy will complete an unexpired term that ends in September 2010. The appointee will be eligible to compete for the full three-year term when the current term expires.

FOR FURTHER INFORMATION CONTACT: BLM Alturas Field Manager Tim Burke at (530) 233-4666, or Public Affairs Officer Joseph J. Fontana at the phone or e-mail address listed below.

SUPPLEMENTARY INFORMATION: The council vacancy is in membership category three: Persons holding state, county or local elected office. The appointment will be made by the Secretary of the Interior, as are all BLM RAC appointments. The person selected must have knowledge or experience in the interest area specified, and must have knowledge of the geographic area under the council's purview (the Northeast portion of California and the Northwest corner of Nevada).

Qualified applicants must have demonstrated a commitment to collaborate with varied interests to solve

a broad spectrum of natural resource issues.

Nomination forms are available by contacting BLM Public Affairs Officer Joseph J. Fontana, 2950 Riverside Drive, Susanville, CA 96130; by telephone (530) 252-5332; or e-mail, jfontana@ca.blm.gov. Forms are also available online at <http://www.blm.gov/ca/st/en/info/rac.html>. Nominations must be returned to: Bureau of Land Management, 2950 Riverside Drive, Susanville, CA 96130, Attention Public Affairs Officer, no later (insert date that occurs 30 days after notice publication). Individuals can nominate themselves, or interest groups can submit nominations. Nominations must include letters of support from the interest groups the nominee will represent.

Joseph J. Fontana,

Public Affairs Officer.

[FR Doc. E9-3550 Filed 2-18-09; 8:45 am]

BILLING CODE 4310-40-P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLCAD00000 L19900000.AL0000]

Field Office Relocation

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Relocation of the Bureau of Land Management's Palms Springs-South Coast Field Office in Palm Springs, CA.

SUMMARY: The Bureau of Land Management's (BLM) Palm Springs-South Coast Field Office moved from 690 W. Garnet Avenue in North Palm Springs to a new building located at 1201 Bird Center Drive in Palm Springs. The BLM officially closed the office located on W. Garnet at 4:30 p.m., Friday, January 30 and reopened at the new office on Monday February 9, 2009.

The new telephone number is: 760-833-7100.

Directions to the new BLM office: From I-10, take Gene Autry Trail exit and go south approximately three miles. Turn left on Tachevah and then left onto Bird Center Dr. The new address is: Bureau of Land Management, Palm Springs-South Coast Field Office, 1201 Bird Center Drive, Palm Springs, CA 92262.

FOR FURTHER INFORMATION CONTACT: Doris Ray, BLM Palm Springs-South Coast Field Office at (760) 833-7100.

Dated: February 3, 2009.

Karen Barnett,

Deputy State Director, Support Services.

[FR Doc. E9-3545 Filed 2-18-09; 8:45 am]

BILLING CODE 4310-SS-P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLCAC00000 L07770900 XZ0000]

Notice of Public Meeting of the Central California 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 (FLPMA) and the Federal Advisory Committee Act of 1972 (FACA), the U.S. Department of the Interior, Bureau of Land Management (BLM) Central California Resource Advisory Council (RAC) will meet as indicated below.

DATES: The meeting will be held Friday and Saturday, March 20 and 21, 2009, at the Mt. Whitney Golf Club clubhouse, 2559 S. Main St., Lone Pine, Calif. On March 20, the members will convene at 8 a.m. for a business meeting, followed by a field trip to the Alabama Hills beginning at noon. Members of the public are welcome to attend the tour and meeting. Field tour participants must provide their own transportation and lunch. The Advisory Council will resume its meeting at 8 a.m. on March 21, at the Mt. Whitney Golf Club clubhouse. Time for public comment is reserved from 9 a.m. to 10 a.m. on March 21.

FOR FURTHER INFORMATION CONTACT: BLM Bishop Field Office Manager, (760) 872-5011; or BLM Public Affairs Officer David Christy, (916) 985-4474.

SUPPLEMENTARY INFORMATION: The 12-member council advises the Secretary of the Interior, through the BLM, on a variety of planning and management issues associated with public land management in Central California, including Inyo and Mono counties. At this meeting, agenda topics will include an update on the progress of the Alabama Stewardship Group and a presentation on the proposed Cougar Gold Mining Operation in the Bodie Hills. Additional ongoing business will be discussed by the council. All meetings are open to the public. Members of the public may present written comments to the council. Each formal council meeting will have time allocated for public comments. Depending on the number of persons

wishing to speak, and the time available, the time for individual comments may be limited. Members of the public are welcome on field tours, but they must provide their own transportation and lunch. Individuals who plan to attend and need special assistance, such as sign language interpretation and other reasonable accommodations, should contact the BLM as provided above.

Dated: February 5, 2009.

David Christy,

Public Affairs Officer.

[FR Doc. E9-3536 Filed 2-18-09; 8:45 am]

BILLING CODE 4310-40-P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLORV00000-L1020000.DD0000; HAG 9-0079]

Meeting Notice for the National Historic Oregon Trail Interpretive Center (NHOTIC) Advisory Board

AGENCY: Bureau of Land Management (BLM), Vale District.

ACTION: Meeting Notice for the National Historic Oregon Trail Interpretive Center (NHOTIC) Advisory Board.

SUMMARY: At the NHOTIC Advisory Board meeting, we will welcome new members, elect new officers, review the mission and vision statements, review the strategic plan, and review the charter and consider other matters that may reasonably come before the Advisory Board.

DATES: The NHOTIC Advisory Board meeting is scheduled for March 13, 2009. The meeting is open to the public. The meeting will take place from 8:30 a.m. to 12:15 p.m. Pacific Standard Time (PST). Public comment is scheduled from 10:50 a.m. to 11:05 a.m. PST, March 13, 2009. For a copy of the information to be distributed to the Council members, please submit a written request to the Vale District Office 10 days prior to the meeting.

ADDRESSES: The meeting will take place at the Best Western Sunridge Inn, One Sunridge Way, Baker City, Oregon.

FOR FURTHER INFORMATION CONTACT: Additional information concerning the NHOTIC Advisory Board meeting may be obtained from Mark Wilkening, Public Affairs Officer, Vale District Office, 100 Oregon Street, Vale, Oregon 97918, (541) 473-6218 or e-mail mark_wilkening@blm.gov.

Dated: February 3, 2009.

David R. Henderson,

District Manager.

[FR Doc. E9-3541 Filed 2-18-09; 8:45 am]

BILLING CODE 4310-33-P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLNMA01000 L1430000.ER000 241E.00; MNM 117833]

Noncompetitive Sale of Public Lands in Sandoval County, NM

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Notice of realty action.

SUMMARY: The Bureau of Land Management (BLM) has determined that land located in Sandoval County, New Mexico, is suitable for direct sale to Victor and Consuelo Velarde under authority of Section 203 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2750, 43 U.S.C. 1713), at not less than the estimated fair market value of \$3,500. The land will not be offered for sale until at least 60 days after the date of this notice. This parcel is located in a disposal area as cited in the Rio Puerco Resource Management Plan, October 1992 Update.

DATES: Interested parties may submit comments concerning the proposed sale no later than 45 days after publication of this Notice in the **Federal Register**. Only written comments will be accepted.

ADDRESSES: Written comments concerning this Notice should be addressed to: District Manager, BLM Rio Puerco Field Office, 435 Montaña Rd., NE., Albuquerque, New Mexico 87107.

FOR FURTHER INFORMATION CONTACT: Arlene Salazar, Realty Specialist, at the address above or by telephone at (505) 761-8772.

SUPPLEMENTARY INFORMATION: The parcel of public land is described as follows:

New Mexico Principal Meridian

T. 21 N., R. 1 W.,
Sec. 8, lot 4.

The area described contains approximately .46 acres, in Sandoval County.

The land described is hereby segregated from appropriation under the public land laws, including the mining laws, pending disposition of this action or 270 days from the date of publication of this notice, whichever occurs first. Conveying title to the affected public land is consistent with current BLM land use planning.

The patent, when issued, would be subject to the following terms, conditions, and reservations:

1. All minerals, including coal, will be reserved to the United States with the right to prospect for, mine, and remove the minerals.

2. A right-of-way for ditches and canals constructed by the authority of the United States, Act of August 30, 1890 (43 U.S.C. 945).

3. All valid existing rights documented on the official public land records at the time of patent issuance.

4. All existing rights-of-way reservations that the authorized officer determines appropriate to ensure public access and proper management of Federal land and interests therein.

Additional detailed information concerning this Notice of Realty Action, including environmental documents, is available for review at the address above.

After 45 days from publication of this Notice in the **Federal Register**, the lands described above will be segregated from all forms of appropriation under the public land laws, including the mining and mineral leasing laws.

On or before 45 days after publication of this Notice in the **Federal Register**, comments may be submitted regarding the proposed conveyance of the land to the Field Manager, BLM Rio Puerco Field Office, at the address above.

Only written comments will be accepted. Before including your address, phone number, e-mail address, or other personal identifying information in your comments, you should be aware that your entire comments—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comments to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Additional Comments: The State Director will review any adverse comments. In the absence of adverse comments, the segregation of the lands will become effective after 45 days of this Notice in the **Federal Register**.

Authority: 43 CFR part 2710.

David R. Sitzler,

Acting Field Manager, Rio Puerco Field Office.

[FR Doc. E9-3537 Filed 2-18-09; 8:45 am]

BILLING CODE 4310-AG-P

DEPARTMENT OF THE INTERIOR**Bureau of Land Management**

[MT-922-09-1310-FI-P; NDM 94955, NDM 97028 and NDM 97029]

Notice of Proposed Reinstatement of Terminated Oil and Gas Leases NDM 94955, NDM 97028 and NDM 97029

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: Per 30 U.S.C. 188(d), Whiting Oil & Gas Corporation timely filed petitions for reinstatement of oil and gas leases NDM 94955, NDM 97028 and NDM 97029, Billings and McKenzie Counties, North Dakota. The lessee paid the required rentals accruing from the date of termination.

No leases were issued that affect these lands. The lessee agrees to new lease terms for rentals and royalties of \$10 per acre and 16 $\frac{2}{3}$ percent or 4 percentages above the existing competitive royalty rate. The lessee paid the \$500 administration fee for the reinstatement of each lease and \$163 cost for publishing this Notice.

The lessee met the requirements for reinstatement of the leases per Sec. 31 (d) and (e) of the Mineral Leasing Act of 1920 (30 U.S.C. 188). We are proposing to reinstate the leases, effective the date of termination subject to:

- The original terms and conditions of the leases;
- The increased rental of \$10 per acre;
- The increased royalty of 16 $\frac{2}{3}$ percent or 4 percentages above the existing competitive royalty rate; and
- The \$163 cost of publishing this Notice

FOR FURTHER INFORMATION CONTACT: Teri Bakken, Chief, Fluids Adjudication Section, BLM Montana State Office, 5001 Southgate Drive, Billings, Montana 59101-4669, 406-896-5091.

Dated: February 12, 2009.

Teri Bakken,

Chief, Fluids Adjudication Section.

[FR Doc. E9-3523 Filed 2-18-09; 8:45 am]

BILLING CODE 4310-SS-P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-617]

In the Matter of Certain Digital Televisions and Certain Products Containing Same and Methods of Using Same; Notice of Commission Determination To Review in Part a Final Determination Finding a Violation of Section 337; Schedule for Filing Written Submissions on the Issues Under Review and on Remedy, the Public Interest and Bonding

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined to review in part the final initial determination ("ID") issued by the presiding administrative law judge ("ALJ") on November 17, 2008, finding a violation of section 337 of the Tariff Act of 1930, 19 U.S.C. 1337, in the above-captioned investigation.

FOR FURTHER INFORMATION CONTACT:

Daniel E. Valencia, Office of the General Counsel, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone (202) 205-1999. Copies of non-confidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone (202) 205-2000. General information concerning the Commission may also be obtained by accessing its Internet server at <http://www.usitc.gov>. The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at <http://edis.usitc.gov>. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205-1810.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation on November 15, 2007, based on a complaint filed by Funai Electric Co., Ltd. of Japan and Funai Corporation of Rutherford, NJ (collectively "Funai"), alleging violations of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain digital televisions and certain products containing the same and methods of using the same by

reason of infringement of certain claims of United States Patent Nos. 5,329,369 ("the '369 patent") and 6,115,074 ("the '074 patent"). 72 **Federal Register** 64240 (November 15, 2007). The complaint named fourteen respondents. Subsequent to institution, three respondents were terminated from the investigation based on settlement agreements.

On November 17, 2008, the ALJ issued his final ID, finding that a violation of section 337 has occurred in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain digital televisions and certain products containing the same and methods of using the same by reason of infringement of certain claims of the '074 patent. The ALJ found that no violation exists with respect to the '369 patent. On November 25, 2008, the ALJ issued a recommended determination on remedy and bonding ("RD"). The respondents, the Commission investigative attorney ("IA"), and complainant Funai filed petitions for review of the ID on December 1, 2008. The IA, the respondents, and complainant Funai each filed responses to the petitions for review on December 9, 2008.

On December 4, 2008, the respondents filed a motion requesting judicial notice of Funai's response to an office action in the pending U.S. Patent and Trademark Office ("USPTO") reexamination proceedings concerning the '074 patent. In the alternative, the respondents requested that the evidentiary record be reopened to allow Funai's response to the USPTO to be admitted. On December 15, 2008, the IA and Funai replied to the respondents' motion. On December 17, 2008, the respondents filed a motion for leave to reply and, thereafter, corrected its submission on December 18, 2008. On December 18, 2008 and December 29, 2008, respectively, Funai and the IA replied to respondents' motion for leave.

The Commission notes that the ALJ took notice of the ongoing reexamination proceedings. The Commission has determined to deny Respondents' motion to take judicial notice of specific documents filed in that proceeding. The Commission has also determined to deny Respondents' alternative request for reopening of the record as well as Respondents' motion for leave to reply.

Having examined the record of this investigation, including the ALJ's final ID, the petitions for review, and the responses thereto, the Commission has determined to review the final ID in part. Specifically, the Commission has

determined to review (1) the ALJ's finding that the respondents infringe claim 23 of the '074 patent [CONFIDENTIAL INFORMATION DELETED]; and (2) the ALJ's finding that the respondents induce their customers to infringe claim 23 of the '074 patent. The Commission has determined not to review any other issue decided in the ID.

The parties are requested to brief their positions on the issues under review with reference to the applicable law and the evidentiary record. In connection with its review, the Commission is particularly interested in responses to the following:

[CONFIDENTIAL INFORMATION DELETED]

In connection with the final disposition of this investigation, the Commission may (1) issue an order that could result in the exclusion of the subject articles from entry into the United States, and/or (2) issue one or more cease and desist orders that could result in the respondent(s) being required to cease and desist from engaging in unfair acts in the importation and sale of such articles. Accordingly, the Commission is interested in receiving written submissions that address the form of remedy, if any, that should be ordered. If a party seeks exclusion of an article from entry into the United States for purposes other than entry for consumption, the party should so indicate and provide information establishing that activities involving other types of entry either are adversely affecting it or likely to do so. For background, see *In the Matter of Certain Devices for Connecting Computers via Telephone Lines*, Inv. No. 337-TA-360, USITC Pub. No. 2843 (December 1994) (Commission Opinion).

If the Commission contemplates some form of remedy, it must consider the effects of that remedy upon the public interest. The factors the Commission will consider include the effect that an exclusion order and/or cease and desist orders would have on (1) the public health and welfare, (2) competitive conditions in the U.S. economy, (3) U.S. production of articles that are like or directly competitive with those that are subject to investigation, and (4) U.S. consumers. The Commission is therefore interested in receiving written submissions that address the aforementioned public interest factors in the context of this investigation.

If the Commission orders some form of remedy, the U.S. Trade Representative, as delegated by the President, has 60 days to approve or

disapprove the Commission's action. See Presidential Memorandum of July 21, 2005, 70 **Federal Register** 43251 (July 26, 2005). During this period, the subject articles would be entitled to enter the United States under bond, in an amount determined by the Commission and prescribed by the Secretary of the Treasury. The Commission is therefore interested in receiving submissions concerning the amount of the bond that should be imposed if a remedy is ordered.

Written Submissions: The parties to the investigation are requested to file written submissions on the issues identified in this notice. Parties to the investigation, interested government agencies, and any other interested parties are encouraged to file written submissions on the issues of remedy, the public interest, and bonding. Such submissions should address the ALJ's recommendation on remedy and bonding set forth in the RD. Complainants and the IA are also requested to submit proposed remedial orders for the Commission's consideration. Complainants are also requested to state the dates that the patents at issue expire and the HTSUS numbers under which the accused products are imported. The written submissions and proposed remedial orders must be filed no later than close of business on Tuesday, February 24, 2009. Reply submissions must be filed no later than the close of business on Tuesday, March 3, 2009. No further submissions on these issues will be permitted unless otherwise ordered by the Commission.

Persons filing written submissions must file the original document and 12 true copies thereof on or before the deadlines stated above with the Office of the Secretary. Any person desiring to submit a document to the Commission in confidence must request confidential treatment unless the information has already been granted such treatment during the proceedings. All such requests should be directed to the Secretary of the Commission and must include a full statement of the reasons why the Commission should grant such treatment. See 19 CFR 210.6. Documents for which confidential treatment by the Commission is sought will be treated accordingly. All nonconfidential written submissions will be available for public inspection at the Office of the Secretary.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in sections 210.42-46 and 210.50 of the Commission's Rules of Practice and

Procedure (19 CFR 210.42-46 and 210.50).

Issued: February 11, 2009.

By order of the Commission.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. E9-3460 Filed 2-18-09; 8:45 am]

BILLING CODE 7020-02-P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731-TA-1021 (Review)]

Malleable Cast Iron Pipe Fittings From China

AGENCY: United States International Trade Commission.

ACTION: Scheduling of an expedited five-year review concerning the antidumping duty order on malleable cast iron pipe fittings from China.

SUMMARY: The Commission hereby gives notice of the scheduling of an expedited review pursuant to section 751(c)(3) of the Tariff Act of 1930 (19 U.S.C. 1675(c)(3)) (the Act) to determine whether revocation of the antidumping duty order on malleable cast iron pipe fittings from China would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time. For further information concerning the conduct of this review and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207).

DATE: *Effective Date:* February 6, 2009.

FOR FURTHER INFORMATION CONTACT: Dana Lofgren (202-205-2539), Office of Investigations, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202-205-1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202-205-2000. General information concerning the Commission may also be obtained by accessing its Internet server (<http://www.usitc.gov>). The public record for this review may be viewed on the Commission's electronic docket (EDIS) at <http://edis.usitc.gov>.

SUPPLEMENTARY INFORMATION:

Background. On February 6, 2009, the Commission determined that the domestic interested party group responses to its notice of institution (73

FR 65401, November 3, 2008) of the subject five-year review were adequate and that the respondent interested party group responses were inadequate. The Commission did not find any other circumstances that would warrant conducting a full review.¹ Accordingly, the Commission determined that it would conduct an expedited review pursuant to section 751(c)(3) of the Act. *Staff report.* A staff report containing information concerning the subject matter of the review will be placed in the nonpublic record on March 4, 2009, and made available to persons on the Administrative Protective Order service list for this review. A public version will be issued thereafter, pursuant to section 207.62(d)(4) of the Commission's rules.

Written submissions. As provided in section 207.62(d) of the Commission's rules, interested parties that are parties to this review and that have provided individually adequate responses to the notice of institution, and any party other than an interested party to the review may file written comments with the Secretary on what determination the Commission should reach in the review. Comments are due on or before March 10, 2009 and may not contain new factual information. Any person that is neither a party to the five-year review nor an interested party may submit a brief written statement (which shall not contain any new factual information) pertinent to the review by March 10, 2009. However, should the Department of Commerce extend the time limit for its completion of the final results of its review, the deadline for comments (which may not contain new factual information) on Commerce's final results is three business days after the issuance of Commerce's results. If comments contain business proprietary information (BPI), they must conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means, except to the extent permitted by section 201.8 of the Commission's rules, as amended, 67 FR 68036 (November 8, 2002). Even where electronic filing of a document is permitted, certain documents must also be filed in paper form, as specified in II(C) of the Commission's Handbook on Electronic Filing Procedures, 67 FR 68168, 68173 (November 8, 2002).

¹ A record of the Commissioners' votes, the Commission's statement on adequacy, and any individual Commissioner's statements will be available from the Office of the Secretary and at the Commission's Web site.

In accordance with sections 201.16(c) and 207.3 of the rules, each document filed by a party to the review must be served on all other parties to the review (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority: This review is being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.62 of the Commission's rules.

Issued: February 11, 2009.

By order of the Commission.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. E9-3461 Filed 2-18-09; 8:45 am]

BILLING CODE 7020-02-P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731-TA-1140 (Final)]

Uncovered Innerspring Units from China; Determination

On the basis of the record¹ developed in the subject investigation, the United States International Trade Commission (Commission) determines, pursuant to section 735(b) of the Tariff Act of 1930 (19 U.S.C. 1673d(b)) (the Act), that an industry in the United States is materially injured by reason of imports from China of uncovered innerspring units, provided for in subheading 9404.29.90 of the Harmonized Tariff Schedule of the United States, that have been found by the Department of Commerce (Commerce) to be sold in the United States at less than fair value (LTFV).

Background

The Commission instituted this investigation effective December 31, 2007, following receipt of a petition filed with the Commission and Commerce by Leggett & Platt, Inc., Carthage, MO. The final phase of the investigation was scheduled by the Commission following notification of a preliminary determination by Commerce that imports of uncovered innerspring units from China were being sold at LTFV within the meaning of section 733(b) of the Act (19 U.S.C. 1673b(b)). Notice of the scheduling of the final phase of the Commission's investigation and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S.

¹ The record is defined in sec. 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(f)).

International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** of August 20, 2008 (73 FR 49219). The hearing was held in Washington, DC, on October 22, 2008, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determination in this investigation to the Secretary of Commerce on February 11, 2009. The views of the Commission are contained in USITC Publication 4061 (February 2009), entitled *Uncovered Innerspring Units from China: Investigation No. 731-TA-1140 (Final)*.

Issued: February 11, 2009.

By order of the Commission.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. E9-3462 Filed 2-18-09; 8:45 am]

BILLING CODE 7020-02-P

DEPARTMENT OF JUSTICE

[OMB Number 1103-0090]

Office of Community Oriented Policing Services; Agency Information Collection Activities: Extension of Currently Approved Collection; Comments Requested

ACTION: 30-Day Notice of Information Collection Under Review: Making Officer Redeployment Effective (MORE) Grant Closeout Report.

The Department of Justice (DOJ), Office of Community Oriented Policing Services (COPS) will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies.

The purpose of this notice is to allow for an additional 30 days for public comment until March 23, 2009. This process is conducted in accordance with 5 CFR 1320.10.

Written comments and/or suggestions regarding the items contained in this notice, especially the estimated public burden and associated response time, should be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention Department of Justice Desk Officer, Washington, DC 20503. Additionally, comments may be submitted to OMB via facsimile to (202) 395-5806. Written comments and suggestions from the public and affected

agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Extension of a Currently Approved Collection

(2) *Title of the Form/Collection:* Annual Report to Congress—Making Officer Redeployment Effective (MORE) Closeout Report.

(3) *Agency form number, if any, and the applicable component of the Department sponsoring the collection:* None. U.S. Department of Justice Office of Community Oriented Policing Services.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Law enforcement agencies that are recipients of MORE grants.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond/reply:* It is estimated that 260 respondents annually will complete the form within one hour.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 255.75 hours annually.

If additional information is required contact: Lynn Bryant, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Patrick Henry Building, Suite 1600, 601 D Street, NW., Washington, DC 20530.

Dated: February 13, 2009.

Lynn Bryant,

Department Clearance Officer, PRA, United States Department of Justice.

[FR Doc. E9-3468 Filed 2-18-09; 8:45 am]

BILLING CODE 4410-AT-P

NUCLEAR REGULATORY COMMISSION

[Docket No. 030-11209; NRC-2009-0061]

Notice of Availability of Environmental Assessment and Finding of No Significant Impact for Amendment of Byproduct Materials License No. 21-16544-01, for Unrestricted Release of a Facility in Ann Arbor, MI

AGENCY: Nuclear Regulatory Commission.

ACTION: Issuance of Environmental Assessment and Finding of No Significant Impact for License Amendment.

FOR FURTHER INFORMATION CONTACT:

Peter J. Lee, Ph.D., CHP, Health Physicist, Materials Control, ISFSI, and Decommissioning Branch, Division of Nuclear Materials Safety, Region III, U.S. Nuclear Regulatory Commission, 2443 Warrenville Road, Lisle, Illinois 60532; telephone: (630) 829-9870; fax number: (630) 515-1259; or by e-mail at pjl2@nrc.gov.

SUPPLEMENTARY INFORMATION:

I. Introduction

The U.S. Nuclear Regulatory Commission (NRC) is proposing to amend Byproduct Materials License No. 21-16544-01. This license is held by the Department of Commerce (the Licensee) for its Lake Michigan Field Station, Research Vessel Shenehon, located at 1431 Beach Street, Muskegon, Michigan (the Facility). Issuance of the amendment would authorize release of the Facility for unrestricted use. The Licensee requested this action in letter dated November 24, 2008. The NRC has prepared an Environmental Assessment (EA) in support of this proposed action in accordance with the requirements of Title 10, Code of Federal Regulations (CFR), Part 51 (10 CFR Part 51). Based on the EA, the NRC has concluded that a Finding of No Significant Impact (FONSI) is appropriate with respect to the proposed action. The amendment will be issued to the Licensee following the publication of this FONSI and EA in the **Federal Register**.

II. Environmental Assessment

Identification of Proposed Action

The proposed action would approve the Licensee's November 24, 2008, license amendment request, resulting in the release of the Facility for unrestricted use. License No. 21-16544-01 was issued on July 8, 1975, pursuant to 10 CFR Part 30, and has been amended periodically since that time. The license authorizes the use of by-product materials for in-vitro laboratory research studies and neutron activation studies on soil samples. The licensee ceased using licensed materials in the Facility in 2008. The Licensee has conducted final status surveys of the Facility. The results of these surveys along with other supporting information were provided to the NRC to demonstrate that the criteria in Subpart E of 10 CFR part 20 for unrestricted release have been met.

Need for the Proposed Action

The Licensee has ceased conducting licensed activities at the Facility and seeks the unrestricted use of its Facility.

Environmental Impacts of the Proposed Action

The historical review of licensed activities conducted at the Facility shows that such activities involved use of hydrogen-3 and carbon-14. Prior to performing the final status survey, the Licensee conducted decontamination activities, as necessary, in the areas of the Facility affected by these radionuclides.

The Licensee completed final status surveys on the Facility on November 14, 2008. The surveys covered all areas of the Facility. The final status survey report was attached to the Licensee's amendment request dated November 24, 2008. The Licensee elected to demonstrate compliance with the radiological criteria for unrestricted release as specified in 10 CFR 20.1402 by using the screening values described in NUREG-1757, "Consolidated Decommissioning Guidance," Volume 2 as the radionuclide-specific derived concentration guideline levels (DCGLs). These values provide acceptable levels of surface contamination to demonstrate compliance with the NRC requirements in Subpart E of 10 CFR Part 20 for unrestricted release. The Licensee's final status survey results were below these values and are in compliance with the As Low As Reasonably Achievable (ALARA) requirement of 10 CFR 20.1402. The NRC thus finds that the Licensee's final status survey results are acceptable.

Based on its review, the staff has determined that the affected environment and any environmental impacts associated with the proposed action are bounded by the impacts evaluated by the "Generic Environmental Impact Statement in Support of Rulemaking on Radiological Criteria for License Termination of NRC-Licensed Nuclear Facilities" (NUREG-1496) Volumes 1-3 (ML042310492, ML042320379, and ML042330385). The staff finds there were no significant environmental impacts from the use of radioactive material at the Facility. The NRC staff reviewed available docket file records and the survey results to identify any non-radiological hazards that may have impacted the environment surrounding the Facility. No such hazards or impacts to the environment were identified. The NRC has identified no other radiological or non-radiological activities in the area that could result in cumulative environmental impacts.

The NRC staff finds that issuance of the proposed amendment authorizing release of the Facility for unrestricted use is in compliance with 10 CFR Part 20. Based on its review, the staff considered the impact of the residual radioactivity at the Facility and concluded that the proposed action will not have a significant effect on the quality of the human environment.

Environmental Impacts of the Alternatives to the Proposed Action

Due to the largely administrative nature of the proposed action, its environmental impacts are small. Therefore, the only alternative the staff considered is the no-action alternative, under which the staff would leave things as they are by simply denying the amendment request. This no-action alternative is not feasible because it conflicts with 10 CFR 30.36(d), requiring that decommissioning of byproduct material facilities be completed and approved by the NRC after licensed activities cease. The NRC's analysis of the Licensee's final status survey data confirmed that the Facility meets the requirements of 10 CFR 20.1402 for unrestricted release. Additionally, denying the amendment request would result in no change in current environmental impacts. The environmental impacts of the proposed action and the no-action alternative are therefore similar, and the no-action alternative is accordingly not further considered.

Conclusion

The NRC staff has concluded that the proposed action is consistent with the

NRC's unrestricted release criteria specified in 10 CFR 20.1402. Because the proposed action will not significantly impact the quality of the human environment, the NRC staff concludes that the proposed action is the preferred alternative.

Agencies and Persons Consulted

NRC provided a draft of this Environmental Assessment to the Michigan Department of Environmental Quality for review on January 7, 2009. By response dated January 15, 2008, the State agreed with the conclusions of the EA, and otherwise provided no comments.

The NRC staff has determined that the proposed action is of a procedural nature, and will not affect listed species or critical habitat. Therefore, no further consultation is required under Section 7 of the Endangered Species Act. The NRC staff has also determined that the proposed action is not the type of activity that has the potential to cause effects on historic properties. Therefore, no further consultation is required under Section 106 of the National Historic Preservation Act.

III. Finding of No Significant Impact

The NRC staff has prepared this EA in support of the proposed action. On the basis of this EA, the NRC finds that there are no significant environmental impacts from the proposed action, and that preparation of an environmental impact statement is not warranted. Accordingly, the NRC has determined that a Finding of No Significant Impact is appropriate.

IV. Further Information

Documents related to this action, including the application for license amendment and supporting documentation, are available electronically at the NRC's Electronic Reading Room at <http://www.nrc.gov/reading-rm/adams.html>. From this site, you can access the NRC's Agencywide Document Access and Management System (ADAMS), which provides text and image files of NRC's public documents. The documents related to this action are listed below, along with their ADAMS accession numbers.

1. Kimberly A. Kulpanowski, U.S. Department of Commerce, letter dated November 24, 2008 (ADAMS Accession No. ML083310295);

2. Title 10 Code of Federal Regulations, Part 20, Subpart E, "Radiological Criteria for License Termination;"

3. Title 10 Code of Federal Regulations, Part 51, "Environmental Protection Regulations for Domestic

Licensing and Related Regulatory Functions;"

4. NUREG-1496, "Generic Environmental Impact Statement in Support of Rulemaking on Radiological Criteria for License Termination of NRC-Licensed Nuclear Facilities;"

5. NUREG-1757, "Consolidated Decommissioning Guidance."

If you do not have access to ADAMS, or if there are problems in accessing the documents located in ADAMS, contact the NRC Public Document Room (PDR) Reference staff at 1-800-397-4209, 301-415-4737, or by e-mail to pdr@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 Lisle, Illinois, this 6th day of February 2009.

For the Nuclear Regulatory Commission.

Christine Lipa,

Chief Materials Control, ISFSI, and Decommissioning Branch, Division of Nuclear Materials Safety Region III.

[FR Doc. E9-3500 Filed 2-18-09; 8:45 am]

BILLING CODE 7590-01-P

NUCLEAR REGULATORY COMMISSION

[Docket No. 70-27; NRC-2008-0428]

Notice Issuance of License Amendment To Transfer the Control of Special Nuclear Materials License No. SNM-42

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Notice of license transfer and issuance of conforming amendment.

FOR FURTHER INFORMATION CONTACT:

Amy M. Snyder, Senior Project Manager, Fuel Manufacturing Branch, Division of Fuel Cycle Safety and Safeguards, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Mail Stop EBB2C40M, Washington, DC 20555-0001, Telephone: (301) 492-3225; fax number: (301) 492-5539; e-mail: amy.snyder@nrc.gov.

Pursuant to Title 10 of the Code of Federal Regulations (10 CFR), Section 2.106, the U.S. Nuclear Regulatory Commission (NRC) is providing notice that Special Nuclear Materials (SNM) License No. SNM-42 has been transferred from BWX Technologies (BWXT) to Babcock & Wilcox Nuclear Operations Group (B&W NOG). The licensed activities will continue to be

performed at the B&W NOG facilities in Lynchburg, Virginia. The 2007 request for the then-proposed license transfer was previously noticed in the **Federal Register** on Friday, August 1, 2008; 73 FR 45089, with a notice of an opportunity to request a hearing. No hearing requests were submitted.

On November 12, 2008, the NRC issued an Order approving the proposed license transfer. This order was accompanied by a Safety Evaluation Report (SER) documenting the basis for

the license transfer approval, and a license amendment. This license amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended, and NRC's rules and regulations as set forth in 10 CFR Chapter 1. The license was transferred from BWXT to B&W NOG on January 11, 2009.

Further Information

In accordance with 10 CFR 2.390 of NRC's "Rules of Practice," details with

respect to this action, including the SER and accompanying documentation included in the license Amendment package, are available electronically, at NRC's Electronic Reading Room, at <http://www.nrc.gov/reading-rm/adams.html>. From this site, you can access 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 documents related to this action are:

Documents	ADAMS Accession No.
November 14, 2007: Initial Application	ML080920759
December 7, 2007: Request for Additional Information (RAI) Request I	ML073340643
December 10, 2007: RAI Response I	ML073460400
December 17, 2007: Meeting Minutes	ML080090688
January 7, 2008: Application Supplement	ML080160257
January 7, 2008: Application Supplement	ML080160149
January 11, 2008: Application Supplement	ML080230599
February 1, 2008: RAI Request II	ML080280551
February 1, 2008: Proprietary Determination I	ML080150394
February 15, 2008: RAI Response II	ML080920674
February 29, 2008: Response to Proprietary Determination	ML080640268
March 19, 2008: Application Acceptance	ML080710555
March 31, 2008: Proprietary Determination II	ML080790072
April 24, 2008: RAI Request III	ML081050308
June 27, 2008: Response to RAI Request III	ML082810598
October 29, 2008: SER	ML082600362
Application supplements via e-mails	ADAMS Accession No.
December 12, 2007	ML081190572
December 12, 2007	ML081190669
December 12, 2007	ML081190672
December 13, 2007	ML081190671
December 13, 2007	ML081190670
January 9, 2008	ML081190624
January 14, 2008	ML081190661
March 13, 2008	ML081190657
August 19, 2008; Response to NRC questions	ML082690414
August 26, 2008: NRC Additional Questions	ML082690283
September 5, 2008: Response to NRC Questions	ML082690224
Miscellaneous	ADAMS Accession No.
July 17, 2008: FEDERAL REGISTER notice	ML073511429
September 23, 2008: Environmental Assessment State Consultation	ML083010195
November 12, 2008: Order approving Transfer with SER	ML082910211
January 9, 2009: Extension of Order	ML083530787

If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC Public Document Room (PDR) Reference staff at 1-800-397-4209, 301-415-4737; or by e-mail, to pdr.resource@nrc.gov.

These documents may also be viewed electronically on the public computers located at 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 10th day of February, 2009.

For the U.S. Nuclear Regulatory Commission.

Peter Habighorst,

Branch Chief, Office of Nuclear Material Safety and Safeguards, Division of Fuel Cycle Safety and Safeguards.

[FR Doc. E9-3505 Filed 2-18-09; 8:45 am]

BILLING CODE 7590-01-P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards

In accordance with the purposes of Sections 29 and 182b of the Atomic Energy Act (42 U.S.C. 2039, 2232b), the Advisory Committee on Reactor Safeguards (ACRS) will hold a meeting on March 5-7, 2009, 11545 Rockville Pike, Rockville, Maryland. The date of this meeting was previously published

in the **Federal Register** on Monday, October 6, 2008 (73 FR 58268–58269).

Thursday, March 5, 2009, Conference Room T-2B3, Two White Flint North, Rockville, Maryland

8:30 a.m.–8:35 a.m.: Opening Remarks by the ACRS Chairman (Open)—The ACRS Chairman will make opening remarks regarding the conduct of the meeting.

8:35 a.m.–10:15 a.m.: Draft Final Regulatory Guide 5.71 (formerly DG-5022), “Cyber Security Programs for Nuclear Facilities” (Open/Closed)—The Committee will hear presentations by and hold discussions with representatives of the NRC staff regarding the draft final Regulatory Guide 5.71, NRC Staff’s resolution of stakeholders’ comments, and related matters. [**Note:** A portion of this session may be closed to protect information classified as National Security Information as well as Safeguards Information pursuant to 5 U.S.C. 552b(c)(1) and (3).]

10:30 a.m.–12:15 p.m.: Draft Final Revisions to 10 CFR 50.61: “Fracture Toughness Requirements for Protection Against Pressurized Thermal Shock Events” (Open)—The Committee will hear presentations by and hold discussions with representatives of the NRC staff regarding the draft final revisions to 10 CFR 50.61 on the Pressurized Thermal Shock Events, NRC staff’s resolution of public comments, and related matters.

1:15 p.m.–2:45 p.m.: Draft Final Regulatory Guide 1.200 (formerly DG-1200), “An Approach for Determining the Technical Adequacy of Probabilistic Risk Assessment Results for Risk-Informed Activities” (Open)—The Committee will hear presentations by and hold discussions with representatives of the NRC staff regarding the draft final Regulatory Guide 1.200, NRC staff’s resolution of public comments, and related matters.

3 p.m.–7 p.m.: Preparation of ACRS Reports (Open)—The Committee will discuss proposed ACRS reports on matters discussed during this meeting as well as a proposed report on containment overpressure issue.

Friday, March 6, 2009, Conference Room T-2B3, Two White Flint North, Rockville, Maryland

8:30 a.m.–8:35 a.m.: Opening Remarks by the ACRS Chairman (Open)—The ACRS Chairman will make opening remarks regarding the conduct of the meeting.

8:35 a.m.–10 a.m.: Draft Final Regulatory Guide 5.73 (formerly DG-5026), “Fatigue Management for Nuclear

Power Plant Personnel” (Open)—The Committee will hear presentations by and hold discussions with representatives of the NRC staff regarding the draft final Regulatory Guide 5.73, NRC staff’s resolution of public comments, and related matters.

10:15 a.m.–12:15 p.m.: International Human Reliability Analysis (HRA) Empirical Pilot Study (Open)—The Committee will hear presentations by and hold discussions with representatives of the NRC staff and international stakeholders regarding the HRA Empirical Pilot Study and related matters.

1:15 p.m.–2 p.m.: Future ACRS Activities/Report of the Planning and Procedures Subcommittee (Open/Closed)—The Committee will discuss the recommendations of the Planning and Procedures Subcommittee regarding items proposed for consideration by the full Committee during future ACRS meetings and other matters related to the conduct of the ACRS business. [**Note:** A portion of this session may be closed pursuant to 5 U.S.C. 552b(c)(2) and (6) to discuss organizational and personnel matters that relate solely to internal personnel rules and practices of ACRS, and information the release of which would constitute a clearly unwarranted invasion of personal privacy.]

2 p.m.–2:15 p.m.: Reconciliation of ACRS Comments and Recommendations (Open)—The Committee will discuss the responses from the NRC Executive Director for Operations to comments and recommendations included in recent ACRS reports and letters.

2:15 p.m.–2:45 p.m.: Subcommittee Reports (Open)—The Committee will hear reports by and hold discussions with the Chairmen of the Plant License Renewal Subcommittee and the US-APWR Subcommittee regarding interim review of the Indian Point license renewal application and the NRC staff’s Safety Evaluation Report with Open Items; and selected Topical Reports associated with the US-APWR design, respectively.

3 p.m.–7 p.m.: Preparation of ACRS Reports (Open)—The Committee will discuss proposed ACRS reports.

Saturday, February 7, 2009, Conference Room T-2B3, Two White Flint North, Rockville, Maryland

8:30 a.m.–2:30 p.m.: Preparation of ACRS Reports (Open)—The Committee will continue its discussion of proposed ACRS reports.

2:30 p.m.–3 p.m.: Miscellaneous (Open)—The Committee will discuss matters related to the conduct of Committee activities and specific issues

that were not completed during previous meetings, as time and availability of information permit.

Procedures for the conduct of and participation in ACRS meetings were published in the **Federal Register** on October 6, 2008 (73 FR 58268–58269). In accordance with those procedures, oral or written views may be presented by members of the public, including representatives of the nuclear industry. Electronic recordings will be permitted only during the open portions of the meeting. Persons desiring to make oral statements should notify the Cognizant ACRS staff named below five days before the meeting, if possible, so that appropriate arrangements can be made to allow necessary time during the meeting for such statements. Use of still, motion picture, and television cameras during the meeting may be limited to selected portions of the meeting as determined by the Chairman. Information regarding the time to be set aside for this purpose may be obtained by contacting the Cognizant ACRS staff prior to the meeting. In view of the possibility that the schedule for ACRS meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should check with the Cognizant ACRS staff if such rescheduling would result in major inconvenience.

In accordance with Subsection 10(d) Public Law 92-463, I have determined that it may be necessary to close a portion of this meeting noted above to discuss and protect information classified as National Security Information as well as Safeguards Information pursuant to 5 U.S.C. 552b(c)(1) and (3). In addition, it may be necessary to close a portion of the meeting 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 pursuant to 5 U.S.C. 552b(c)(2) and (6).

Further information regarding topics to be discussed, whether the meeting has been canceled or rescheduled, as well as the Chairman’s ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by contacting Girija Shukla, Cognizant ACRS staff (301-415-6855), between 7:15 a.m. and 5 p.m. (ET). ACRS meeting agenda, meeting transcripts, and letter reports are available through the NRC Public Document Room at pdr.resource@nrc.gov, or by calling the PDR at 1-800-397-4209, or from the

Publicly Available Records System (PARS) component of NRC's document system (ADAMS) which is accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html> or <http://www.nrc.gov/reading-rm/doc-collections/ACRS/>.

Video teleconferencing service is available for observing open sessions of ACRS meetings. Those wishing to use this service for observing ACRS meetings should contact Mr. Theron Brown, ACRS Audio Visual Technician (301-415-8066), between 7:30 a.m. and 3:45 p.m. (ET), at least 10 days before the meeting to ensure the availability of this service. Individuals or organizations requesting this service will be responsible for telephone line charges and for providing the equipment and facilities that they use to establish the video teleconferencing link. The availability of video teleconferencing services is not guaranteed.

Dated: February 12, 2009.

Andrew L. Bates,

Advisory Committee Management Officer.

[FR Doc. E9-3498 Filed 2-18-09; 8:45 am]

BILLING CODE 7590-01-P

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon Written Request, Copies Available
From: Securities and Exchange Commission, Office of Investor Education and Advocacy, Washington, DC 20549-0213.

Extension:

Form ADV-E; Sec File No. 270-318; OMB Control No. 3235-0361.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) the Securities and Exchange Commission (the "Commission") has submitted to the Office of Management and Budget a request for extension of the previously approved collection of information discussed below.

Form ADV-E (17 CFR 279.8) is the cover sheet for accountant examination certificates filed pursuant to rule 206(4)-2 (17 CFR 275.206(4)-2) under the Investment Advisers Act of 1940 (15 U.S.C. 80b-1 *et seq.*) by investment advisers retaining custody of client securities or funds. The annual burden is approximately three minutes per respondent.

The estimate of burden hours set forth above is made solely for the purposes of the Paperwork Reduction Act and is not

derived from a comprehensive or even representative survey or study of the cost of SEC rules and forms.

The information provided on Form ADV-E is mandatory. Responses will not be kept confidential. 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 control number.

Please direct general comments regarding the above information to the following persons: (i) Desk Officer for the Securities and Exchange Commission, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503 or e-mail to:

Shagufta_Ahmed@omb.eop.gov; and (ii)

Charles Boucher, Director/CIO, Securities and Exchange Commission, C/O Shirley Martinson, 6432 General Green Way, Alexandria, VA 22312; or send an e-mail to:

PRA_Mailbox@sec.gov. Comments must be submitted to OMB within 30 days of this notice.

February 11, 2009.

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E9-3431 Filed 2-18-09; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon Written Request, Copies Available
From: U.S. Securities and Exchange Commission, Office of Investor Education and Advocacy, Washington, DC 20549-0213.

Extension:

Rule 17Ac2-1, SEC File No. 270-95, OMB Control No. 3235-0084.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission ("Commission") has submitted to the Office of Management and Budget ("OMB") a request for approval of extension of the existing collection of information provided for in the following rule: Rule 17Ac2-1 (17 CFR 240.17Ac2-1) under the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*) ("Exchange Act").

Rule 17Ac-2, pursuant to Section 17A(c) of the Exchange Act, generally requires transfer agents to register with their Appropriate Regulatory Agency ("ARA"), whether the Commission, the Comptroller of the Currency, the Board of Governors of the Federal Reserve

System, the Federal Deposit Insurance Corporation, or the Office of Thrift Supervision, and to amend their registrations if the information becomes inaccurate, misleading, or incomplete.

Paragraph 1 of Rule 17Ac-2, requires transfer agents to file a Form TA-1 application for registration with the Commission where the Commission is their ARA. Transfer agents must also file an amended Form TA-1 application for registration if the existing on their Form TA-1 becomes inaccurate, misleading, or incomplete. The Form TA-1s must be filed with the Commission electronically, absent an exemption, on EDGAR pursuant to Regulation S-T (17 CFR 232).

The Commission receives on an annual basis approximately 100 applications for registration on Form TA-1 from transfer agents required to register with the Commission. Included in this figure are amendments to Form TA-1 as required by Paragraph (c) of Rule 17Ac2-1 to address information that has become inaccurate, misleading, or incomplete. Based on past submissions, the staff estimates that the average number of hours necessary to comply with the requirements of Rule 17Ac-1 and Form TA-1 is one and one-half hours with a total burden of 150 hours.

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 control number.

Comments should be directed to: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503 or by sending an e-mail to: *Shagufta_Ahmed@omb.eop.gov*; and (ii) Charles Boucher, Chief Information Officer, Securities and Exchange Commission, c/o Shirley Martinson, 6432 General Green Way, Alexandria, VA 22312 or send an e-mail to: *PRA_Mailbox@sec.gov*. Comments must be submitted within 30 days of this notice.

Dated: February 11, 2009.

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E9-3433 Filed 2-18-09; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-59395; File No. SR-NYSEArca-2009-10]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing of a Proposed Rule Change Amending Rule 6.4

February 11, 2009.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),¹ and Rule 19b-4 thereunder,² notice is hereby given that on February 10, 2009, NYSE Arca, Inc. ("NYSE Arca" or the "Exchange") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

NYSE Arca, Inc. is proposing to amend Rule 6.4, Series of Options Open for Trading, to expand the \$1 Strike Program. Changes to the rule text are shown in Exhibit 5 of the filing. A copy of this filing is available on the Exchange's Web site at <http://www.nyse.com>, at the Exchange's principal office, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The \$1 Strike Program currently allows NYSE Arca to select a total of 10 individual stocks on which options series may be listed at \$1 strike price

intervals. In order to be eligible for selection into the Program, the underlying stock must close below \$50 in its primary market on the previous trading day. If selected for the Program, the Exchange may list strike prices at \$1 intervals from \$3 to \$50, but no \$1 Strike Price may be listed that is greater than \$5 from the underlying stock's closing price on its primary market on the previous day. The Exchange may also list \$1 strikes on any other option class designated by another securities exchange that employs a similar Program under their respective rules. The Exchange may not list long-term option series ("LEAPS") at \$1 strike price intervals for any class selected for the Program. The Exchange is also restricted from listing any series that would result in strike prices being \$.50 apart.

The Exchange now proposes to expand the Program to allow NYSE Arca to select a total of 55 individual stocks on which option series may be listed in \$1 strike price intervals, and to expand slightly the price range on which the Exchange may list \$1 strikes, *i.e.*, from \$1 to \$50. The existing restrictions on listing \$1 strikes would continue, *i.e.*, no \$1 strike price may be listed that is greater than \$5 from the underlying stock's closing price in its primary market on the previous day, and NYSE Arca is restricted from listing any series that would result in strike prices being \$.50 apart.

NYSE Arca believes that \$1 strike price intervals provide investors with greater flexibility in the trading of equity options that overlie lower price stocks by allowing investors to establish equity options positions that are better tailored to meet their investment objectives. The Exchange notes that current market conditions, in which the number of securities trading below \$50 has increased dramatically, further warrant the expansion of the Program.

The Exchange is also proposing to set forth a delisting policy. Specifically, the Exchange would, on a monthly basis, review series that were originally listed under the \$1 Strike Program with strike prices that are more than \$5 from the current values of the options classes in the Program. The Exchange would delist series with no open interest in both the put and the call series having a: (i) Strike higher than the highest strike price with open interest in the put and/or call series for a given expiration month; and (ii) strike lower than the lowest strike price with open interest in the put and/or call series for a given expiration month.

Notwithstanding the proposed delisting policy, NYSE Arca could grant

OTP Holder requests to add strikes and/or maintain strikes in certain options classes in series eligible for delisting.

Further, in connection with the proposed delisting policy, if the Exchange identifies series for delisting, the Exchange shall notify other options exchanges with similar delisting policies regarding eligible series for listing, and shall work with such other exchanges to develop a uniform list of series to be delisted, so as to ensure uniform series delisting of multiply listed options classes. NYSE Arca expects that the proposed delisting policy will be adopted by other options exchanges that amend their rules to employ a similar expansion of the Program.

With regard to the impact on system capacity, NYSE Arca has analyzed its capacity and represents that it and the Options Price Reporting Authority have the necessary systems capacity to handle the additional traffic associated with the listing and trading of an expanded number of options series as proposed by this filing.

The Exchange believes that the \$1 Strike Program has provided investors with greater trading opportunities and flexibility and the ability to more closely tailor their investment strategies and decisions to the movement of the underlying security. Furthermore, the Exchange has not detected any material proliferation of illiquid options series resulting from the narrower strike price intervals. For these reasons, NYSE Arca requests an expansion of the current Program.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with and furthers the objectives of Section 6(b)(5) of the Act, in that it is designed to promote just and equitable principles of trade, remove impediments to and perfect the mechanisms of a free and open market and a national market system and, in general, to protect investors and the public interest, in that it provides for a greater number of available strike prices in lower priced underlying issues, and thus allows investors to better tailor their investments to meet their needs.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form <http://www.sec.gov/rules/sro.shtml>; or
- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-NYSEArca-2009-10 on the subject line.

Paper Comments

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

All submissions should refer to File Number SR-NYSEArca-2009-10. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the

Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, on business days between the hours of 10 a.m. and 3 p.m., located at 100 F Street, NE., Washington, DC 20549. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-NYSEArca-2009-10 and should be submitted on or before March 12, 2009.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.³

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E9-3466 Filed 2-18-09; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-59378; File No. SR-CBOE-2009-001]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing of a Proposed Rule Change Related to the \$1 Strike Program

February 10, 2009.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),¹ and Rule 19b-4 thereunder,² notice is hereby given that on January 23, 2009, the Chicago Board Options Exchange, Incorporated (the "Exchange" or "CBOE") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change, and on February 4, 2009 filed Amendment No. 1 to the proposed rule change, as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

³ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to expand the \$1 Strike Program. The text of the proposed rule change is available on the Exchange's Web site (<http://www.cboe.org/Legal>), at the Office of the Secretary, CBOE and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

Amendment No. 1 to SR-CBOE-2009-001 replaces the original filing in its entirety.³ The purpose of the proposed rule change is to expand the \$1 Strike Program (the "Program").⁴

The \$1 Strike Program currently allows CBOE to select a total of 10 individual stocks on which option series may be listed at \$1 strike price intervals. In order to be eligible for selection into the Program, the underlying stock must close below \$50 in its primary market on the previous trading day. If selected for the Program, the Exchange may list strike prices at \$1 intervals from \$3 to \$50, but no \$1 strike price may be listed that is greater than

³ In its original filing, CBOE also proposed to establish a \$.50 Strike Program in a limited number of classes. CBOE no longer seeks to adopt such a program in connection with this proposed rule change.

⁴ The Commission approved the \$1 Strike Program as a pilot on June 5, 2003. See Securities Exchange Act Release No. 47991 (June 5, 2003), 68 FR 35243 (June 12, 2003). The Pilot Program was subsequently extended through June 5, 2008. See Securities Exchange Act Release No. 49799 (June 3, 2004), 69 FR 32642 (June 10, 2004) (SR-CBOE-2004-34); SEC Release No. 51771 (May 31, 2005), 70 FR 33228 (June 7, 2005) (SR-CBOE-2005-37); SEC Release No. 53805 (May 15, 2006), 71 FR 29690 (May 23, 2006) (SR-CBOE-2006-31); and SEC Release No. 55673 (April 26, 2007), 72 FR 24646 (May 3, 2007) (SR-CBOE-2007-38). The pilot was subsequently expanded and permanently approved in 2007. See Exchange Act Release No. 57049 (December 27, 2007), 73 FR 528 (January 3, 2008) (SR-CBOE-2007-125).

\$5 from the underlying stock's closing price in its primary market on the previous day. The Exchange may also list \$1 strikes on any other option class designated by another securities exchange that employs a similar Program under their respective rules. The Exchange may not list long-term option series ("LEAPS") at \$1 strike price intervals for any class selected for the Program. The Exchange also is restricted from listing any series that would result in strike prices being \$0.50 apart.

The Exchange now proposes to expand the Program to allow CBOE to select a total of 55 individual stocks on which option series may be listed at \$1 strike price intervals, and to expand slightly the price range on which the Exchange may list \$1 strikes, *i.e.*, from \$1 to \$50. The existing restrictions on listing \$1 strikes would continue, *i.e.*, no \$1 strike price may be listed that is greater than \$5 from the underlying stock's closing price in its primary market on the previous day, and CBOE is restricted from listing any series that would result in strike prices being \$0.50 apart.

As stated in the Commission order that initially approved CBOE's Program and in subsequent extensions and expansions of the Program, CBOE believes that \$1 strike price intervals provide investors with greater flexibility in the trading of equity options that overlie lower price stocks by allowing investors to establish equity options positions that are better tailored to meet their investment objectives. Indeed, member firms representing customers have repeatedly requested that CBOE seek to expand the Program in terms of the number of classes on which option series may be listed at \$1 strike price intervals. The Exchange notes that current market conditions, in which the number of securities trading below \$50 has increased dramatically, further warrant the expansion of the Program.

The Exchange is also proposing to set forth a delisting policy. Specifically, the Exchange would, on a monthly basis, review series that were originally listed under the \$1 Strike Program with strike prices that are more than \$5 from the current values of the options classes in the Program. The Exchange would delist series with no open interest in both the put and the call series having a: (i) Strike higher than the highest strike price with open interest in the put and/or call series for a given expiration month; and (ii) strike lower than the lowest strike price with open interest in the put and/or call series for a given expiration month.

Notwithstanding the proposed delisting policy, CBOE could grant member requests to add strikes and/or maintain strikes in certain options classes in series eligible for delisting.

Further, in connection with the proposed delisting policy, if the Exchange identifies series for delisting, the Exchange shall notify other options exchanges with similar delisting policies regarding eligible series for listing, and shall work with such other exchanges to develop a uniform list of series to be delisted, so as to ensure uniform series delisting of multiply listed options classes. CBOE expects that the proposed delisting policy will be adopted by other options exchanges that amend their rules to employ a similar expansion of the Program.

CBOE also proposes to amend the \$1 Strike Program and Rule 24.9.11 to eliminate the provision that provides that if CBOE lists strike prices in \$1 intervals in the Mini-SPX options class, the number of classes CBOE can select to participate in the \$1 Strike Program is reduced by one. CBOE does not believe such a restriction is appropriate and necessary, particularly when it represents (see below) that it has sufficient capacity to handle the additional traffic associated with the listing and trading of an expanded number of options series as proposed by this filing.

With regard to the impact on system capacity, CBOE has analyzed its capacity and represents that it and the Options Price Reporting Authority have the necessary systems capacity to handle the additional traffic associated with the listing and trading of an expanded number of series as proposed by this filing.

The Exchange believes that the \$1 Strike Program has provided investors with greater trading opportunities and flexibility and the ability to more closely tailor their investment strategies and decisions to the movement of the underlying security. Furthermore, the Exchange has not detected any material proliferation of illiquid options series resulting from the narrower strike price intervals. For these reasons, CBOE requests an expansion of the current Program.

2. Statutory Basis

The Exchange believes the rule proposal is consistent with the Securities Exchange Act of 1934 (the "Act") and the rules and regulations under the Act applicable to a national securities exchange and, in particular, the requirements of Section 6(b) of the

Act.⁵ Specifically, the Exchange believes that the proposed rule change is consistent with the Section 6(b)(5) Act⁶ requirements that the rules of an exchange be designed to promote just and equitable principles of trade, to prevent fraudulent and manipulative acts and, in general, to protect investors and the public interest. The Exchange believes that expanding the current \$1 Strike Program will result in a continuing benefit to investors by giving them more flexibility to closely tailor their investment decisions in greater number of securities.

B. Self-Regulatory Organization's Statement on Burden on Competition

CBOE does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form <http://www.sec.gov/rules/sro.shtml>; or
- Send an e-mail to rule-comments@sec.gov. Please include File

⁵ 15 U.S.C. 78f(b).

⁶ 15 U.S.C. 78f(b)(5).

Number SR-CBOE-001 on the subject line.

Paper Comments

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

All submissions should refer to File Number SR-CBOE-2009-001. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, on business days between the hours of 10 a.m. and 3 p.m., located at 100 F Street, NE., Washington, DC 20549. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-CBOE-2009-001 and should be submitted on or before March 12, 2009.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.⁷

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E9-3423 Filed 2-18-09; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-59379; File No. SR-CBOE-2009-002]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Broker-Dealer Transaction Fees for AIM Executions

February 10, 2009.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on January 30, 2009, Chicago Board Options Exchange, Incorporated ("CBOE" or the "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II and III below, which Items have been prepared by CBOE. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Chicago Board Options Exchange, Incorporated ("CBOE" or "Exchange") proposes to amend its Fees Schedule regarding broker-dealer transaction fees for Automated Improvement Mechanism ("AIM") executions. The text of the proposed rule change is available on the Exchange's website (<http://www.cboe.org/legal>), at the Exchange's Office of the Secretary and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, CBOE included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. CBOE has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

On December 1, 2008, the Exchange reduced the transaction fee for non-member market-maker orders ("N" origin code orders) executed on AIM

from \$.45 per contract to \$.20 per contract.¹ In order to encourage more use of AIM, the Exchange proposes to reduce all broker-dealer transaction fees for orders executed on AIM from \$.45 per contract to \$.20 per contract. Broker-dealer transaction fees apply to broker-dealer orders (orders with "B" origin code), non-member market-maker orders (orders with "N" origin code) and orders from specialists in the underlying security (orders with "Y" origin code).²

The fee discount would apply to B, N and Y origin code orders initially entered into AIM as the contra party to an Agency Order. The Exchange proposes to implement this fee change on February 2, 2009.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with Section 6(b) of the Securities Exchange Act of 1934 ("Act")³, in general, and furthers the objectives of Section 6(b)(4)⁴ of the Act in particular, in that it is designed to provide for the equitable allocation of reasonable dues, fees, and other charges among CBOE members and other persons using its facilities. The Exchange believes that reducing broker-dealer transaction fees for AIM executions should encourage more use of AIM.

B. Self-Regulatory Organization's Statement on Burden on Competition

CBOE does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)

¹ See Securities Exchange Act Release No. 59068 (December 8, 2008), 73 FR 76428 (December 16, 2008). AIM is an electronic auction system that exposes certain orders electronically in an auction to provide such orders with the opportunity to receive an execution at an improved price. AIM is governed by CBOE Rule 6.74A. The fee discount applies to non-member market-maker orders initially entered into AIM as the contra party to an Agency Order.

² See CBOE Fees Schedule, Footnote 16.

³ 15 U.S.C. 78f(b).

⁴ 15 U.S.C. 78f(b)(4).

⁷ 17 CFR 200.30-3(a)(12).

of the Act⁵ and subparagraph (f)(2) of Rule 19b-4⁶ thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-CBOE-2009-002 on the subject line.

Paper Comments

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

All submissions should refer to File Number SR-CBOE-2009-002. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of CBOE. All comments received will be posted

without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-CBOE-2009-002 and should be submitted on or before March 12, 2009.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.⁷

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E9-3424 Filed 2-18-09; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-59388; File No. SR-DTC-2009-02]

Self-Regulatory Organizations; The Depository Trust Company; Notice of Filing of Proposed Rule Change To Implement a Maturity Presentment Pend Function To Replace the Maturity Presentment Contingency System

February 11, 2009.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")¹ and Rule 19b-4 thereunder² notice is hereby given that on January 13, 2009, The Depository Trust Company ("DTC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change described in Items I, II, and III below, which items have been prepared primarily by DTC. The Commission is publishing this notice to solicit comments on the proposed rule change from interested parties.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change seeks to implement a Maturity Presentment Pend function ("IPA MP Pend Function") that will replace the Maturity Presentment Contingency System.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, DTC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements

may be examined at the places specified in Item IV below. DTC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of these statements.³

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

Current MMI Maturity Payment Procedure

Currently, as part of DTC's Money Market Instrument ("MMI") program maturity payment procedures, DTC sweeps maturing MMI positions from investors' custodians accounts and generates Maturity Presentments ("MPs")⁴ to the designated Issuing Agent or Paying Agent's (collectively, "IPA") accounts. DTC debits the IPA's account by the amount of the maturity proceeds for settlement that day and credits the same amount to the investor's custodian account for payment that day. Because MPs are processed against an IPA's DTC account, IPAs may refuse to pay for a specific issuer's MP in the event that the issuer defaults on its obligation to the IPA. DTC allows IPAs to enter refusal to pay notifications through the Participant Terminal System ("PTS") until 3 p.m. Eastern Time on the date of maturity.⁵

Under extraordinary circumstances or in times of unusual market stress, DTC may use the Maturity Presentment Contingency System ("MPCS") on the days following a disaster and after consultation with the Commission to allow IPA banks to review and manually release MPs. IPAs are able to release MPs for processing on a CUSIP or issuer acronym level basis. At the close of settlement, MPs that have not been released are rolled into the next business day's processing queue for representation along with that day's scheduled obligations. This process continues until all maturities are funded and the IPA releases the MP, the IPA notifies DTC of its refusal to pay, or the MPCS contingency procedure is terminated.

³ The Commission has modified the text of the summaries prepared by DTC.

⁴ References to MPs also cover other payment obligations of MMI issuers such as periodic payments and periodic interest payments.

⁵ If the IPA refuses to pay, then DTC follows its Defaulting Issuer procedures, which include devaluing the collateral value of all of the defaulting issuer's MMI to zero, reversing all of the issuer's issuances and maturities processed that day, notifying DTC participants of the default, and blocking all further issuances by the issuer from entering DTC. If an IPA then contacts DTC to reverse the refusal to pay instruction, DTC undoes all the actions it took under its Defaulting Issuer procedures.

⁵ 15 U.S.C. 78s(b)(3)(A).

⁶ 17 CFR 240.19b-4(f)(2).

⁷ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

Proposed MMI Maturity Payment Procedure

DTC is proposing to enhance its systems in order to provide IPAs the ability to monitor their credit exposure to MMI issuers. DTC's proposed IPA MP Pend Function will enable IPAs to review and manually release MPs in the ordinary course of business. IPAs will have the ability to set the pend request anytime prior to the MP sweep or at any point during the day for unknown rate maturities, based on acronym, product type, or the issuer MMI base CUSIP number. Each day, DTC will require the IPA to (1) release all items held in pend or (2) invoke its right to refuse to pay.⁶ If the IPA takes no action by 3 p.m. Eastern Time, the pending items will be released by DTC for normal processing.

All MP Pend requests will be time-stamped and will be immediately effective. Participants with MMI positions will be able to ascertain which MPs have been placed in pend status by the IPA.

Each time it uses the IPA MP Pend Function to create a pend request or make a change to its profile, the IPA will be required to represent and warrant that it has authority to submit the request appearing on the IPA's screen and that it will either release the items held in pend by 3 p.m. Eastern Time on the date of maturity or by such time communicate to DTC that it refuses to pay. Additionally, the IPA must acknowledge that it understands and agrees that all MPs will be released for normal processing if it does not communicate its intention to refuse to pay DTC by 3 p.m. Eastern Time. In extraordinary circumstances, DTC will maintain its ability to set the pend request based on an issuer acronym, product, program, base number, or globally for all IPAs or for individual IPAs. In all circumstances, the IPA will maintain its right to notify DTC of its refusal to pay.

DTC believes that the proposed rule change is consistent with the requirements of Section 17A of the Act⁷ and the rules and regulations thereunder because the proposed change will reduce the amount of late day reversals associated with an IPA's refusal to pay notification at 3 p.m. thereby reducing the operational and financial risks associated with reversals of refusals to pay and promoting the

⁶ The IPA MP Pend Function differs from the MPCS in this regard. Under the MPCS system, IPAs are not required to release items held in pend or invoke their right to refuse to pay each day since the MPs are rolled over into the next business day's processing queue.

⁷ 15 U.S.C. 78q-1.

prompt and accurate settlement of securities transactions.

(B) Self-Regulatory Organization's Statement on Burden on Competition

DTC does not believe that the proposed rule change will have any impact or impose any burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The proposal was developed in consultation with various industry organizations. Written comments relating to the proposed rule change have not been solicited or received. DTC will notify the Commission of any written comments received by DTC.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within thirty-five days of the date of publication of this notice in the **Federal Register** or within such longer period:

(i) As the Commission may designate up to ninety days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>) or
- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-DTC-2009-02 on the subject line.

Paper Comments

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

All submissions should refer to File Number SR-DTC-2009-02. This file number should be included on the subject line if e-mail is used. To help the

Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filings also will be available for inspection and copying at the principal office of DTC and on DTC's Web site at http://www.dtcc.com/downloads/legal/rule_filings/2009/dtc/2009-02.pdf. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-DTC-2009-02 and should be submitted on or before March 12, 2009.

For the Commission by the Division of Trading and Markets, pursuant to delegated authority.⁸

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E9-3425 Filed 2-18-09; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-59386; File No. SR-DTC-2008-06]

Self-Regulatory Organizations; The Depository Trust Company; Order Approving Proposed Rule Change, As Amended, To Modify End of Day Settlement Procedures Relating to Settlement Acknowledgement Cut-Off Time Frames for Settling Banks

February 11, 2009.

I. Introduction

On June 19, 2008, The Depository Trust Company ("DTC") filed with the Securities and Exchange Commission ("Commission") and on August 7, 2008, amended proposed rule change SR-

⁸ 17 CFR 200.30-3(a)(12).

DTC–2008–06 pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”).¹ Notice of the proposal was published in the **Federal Register** on August 18, 2008.² The Commission received no comment letters. For the reasons discussed below, the Commission is approving the proposed rule change as amended.

II. Description

DTC is modifying its end of day settlement procedures relating to settlement acknowledgement cut-off time frames for Settling Banks.³

DTC’s End-of-Day Settlement Processing controls and coordinates the settling of Participant accounts and Settling Bank accounts on DTC’s systems. Settlement occurs through the Fedwire system and is initiated when DTC posts final figures for Participants and Settling Banks. Although the actual settlement process begins with the posting of the final settlement figures at approximately 3:45 p.m. each day,⁴ DTC’s settlement system provides Participants and Settling Banks with online reports throughout the processing day. These reports reflect gross debits, gross credits, and the net debit or credit for each Participant and a net-net figure for each Settling Bank.

Settling Banks, which settle for themselves, may also settle for other Participants. Currently, the cut-off time for Settling Banks to acknowledge their net-net settlement balance or to refuse to settle for a specific Participant is the later of 4:30 p.m. or 30 minutes after final net-net settlement balances are first made available by DTC.⁵ Any Participant for which a Settling Bank has refused to settle must make arrangements for payment of any amount due DTC.

Once the Settling Bank acknowledgement process has been completed, DTC utilizes the Federal Reserve Bank of New York’s National Settlement Service (“NSS”) to effect end-of-day cash settlement.

DTC is proposing that the cut-off time for Settling Banks to acknowledge their settlement balance or refusal to settle for a Participant be the later of 4:15 p.m. or

30 minutes after DTC has posted final net-net settlement balances. DTC is proposing this change to enable DTC to be in a position to release the credit amount due Participants at an earlier time. Since DTC provides each Settling Bank with online reports throughout the processing day which reflect gross debits, gross credits, and the net debit or credit for each Participant and a net-net figure for the Settling Bank, DTC believes that this earlier cut-off time should not cause any undo burden. In the event that a Settling Bank is experiencing difficulty in identifying customer cash flows or has another extenuating circumstance and as a result needs more time to acknowledge settlement or refuses to settle, that Settling Bank would have to notify the Settlement department of its request for additional time prior to 4:15 p.m.

III. Discussion

Section 19(b) of the Act directs the Commission to approve a proposed rule change of a self-regulatory organization if it finds that such proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to such organization. Section 17A(b)(3)(F) of the Act requires that the rules of a clearing agency be designed to promote the prompt and accurate clearance and settlement of securities transactions.⁶ The Commission believes that DTC’s rule change is consistent with this Section because the rule change should facilitate the prompt and accurate clearance and settlement of securities by enabling DTC to send the NSS file to the Federal Reserve Bank of New York earlier in the day and thus complete settlement earlier.

IV. Conclusion

On the basis of the foregoing, the Commission finds that the proposed rule change, as amended, is consistent with the requirements of the Act and in particular Section 17A of the Act and the rules and regulations thereunder.⁷

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (File No. SR–DTC–2008–06) as amended be and hereby is approved.

⁶ 15 U.S.C. 78q–1(b)(3)(F).

⁷ In approving the proposed rule change, as amended, the Commission considered the proposal’s impact on efficiency, competition, and capital formation.

For the Commission by the Division of Trading and Markets, pursuant to delegated authority.⁸

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E9–3428 Filed 2–18–09; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–59387; File No. SR–DTC–2009–04]

Self-Regulatory Organizations; The Depository Trust Company; Notice of Filing of Proposed Rule Change To Implement and Revise Fees Related to Non-Participant Services

February 11, 2009.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”),¹ notice is hereby given that on January 16, 2009, The Depository Trust Company (“DTC”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change as described in Items I, II, and III below, which items have been prepared primarily by DTC. The Commission is publishing this notice to solicit comments on the proposed rule change from interested parties.

I. Self-Regulatory Organization’s Statement of the Terms of Substance of the Proposed Rule Change

DTC is seeking to revise its fee schedule for Security Position Reports (“SPRs”).

II. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, DTC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. DTC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of these statements.²

(A) Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

An SPR is a report prepared by DTC showing for an issuer whose securities are eligible for DTC’s book entry

⁸ 17 CFR 200.30–3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² The Commission has modified the text of the summaries prepared by DTC.

¹ 15 U.S.C. 78s(b)(1).

² Securities Exchange Act Release No. 58343 (August 12, 2008), 73 FR 48259.

³ The term “Settling Bank” means a Participant which is a bank or trust company, subject to supervision or regulation pursuant to Federal or State banking laws, which is a party to an effective Settling Bank Agreement.

⁴ All times are Eastern Standard Time.

⁵ The end-of-day net-net figure is the net of all participants’ net balances after cross endorsement with the National Securities Clearing Corporation for which a Settling Bank settles, including its own accounts.

services (1) the identity of each DTC participant having that issuer's securities credited as of a selected date to its participant account (*i.e.*, "security position") and (2) the quantity of securities so credited. DTC also provides SPR information to trustees and other authorized third-party agents. These entities typically need SPR information provided by DTC in order

to properly conduct proxy, record date, and voting rights-related functions. Several types of SPRs are available: (1) Weekly reports that show daily closing positions during that week; (2) monthly reports that show closing positions on the last business day of the month; (3) quarterly dividend record date reports that show closing positions on the dividend record date; and (4)

special requests that show closing positions for the date specified. Weekly, monthly, and quarterly record date reports are available by annual subscription only. DTC charges a fee for each SPR and offers discounts for high volume SPR service users. Currently, the fee charged to issuers or trustees for SPRs are as follows:

Report/item	Fee
Weekly Report (one-year minimum subscription required)	<ul style="list-style-type: none"> • \$1,950 per year for the first security issue. • \$575.00 per year for each additional security for the same issuer.
Monthly Report (one-year minimum subscription required)	<ul style="list-style-type: none"> • \$450.00 per year for the first security issue. • \$225.00 per year for each additional security for the same issuer.
Dividend Record Date Report (one-year minimum subscription required).	<ul style="list-style-type: none"> • \$150 per year.
Special Requests	<ul style="list-style-type: none"> • \$120.00 per report, per date request.
Fax	<ul style="list-style-type: none"> • \$25.00 additional per report charge when fax service is specifically requested.
Spreadsheet	<ul style="list-style-type: none"> • \$25.00 additional per report charge when spreadsheet is specifically requested.
Extra Copy	<ul style="list-style-type: none"> • \$25.00 additional fee for the reproduction of previously compiled SPR information.

Fax, Spreadsheet and Extra copy charges are currently billed in addition to subscription and special request charges. DTC is proposing to improve processing efficiencies by eliminating the separate billing of Fax, Spreadsheet,

and Extra Copy charges for weekly and monthly subscriptions, as well as dividend record date reports, and by incorporating the cost of delivering those "additional" services into the subscription charge for the particular

report ordered. Fees for Special Requests, including Fax, Spreadsheet, and Extra Copy charges would remain unchanged. Therefore, DTC proposes to adopt revised SPR fees as follows:

Report/item	Fee
Weekly Report (one-year minimum subscription required).	<ul style="list-style-type: none"> • \$1950 per year for the first security issue, plus a one time charge of \$1400 per additional copy/recipient for that security issue. • \$575.00 per year for each additional security for the same issuer, plus a one time charge of \$575 per additional copy/recipient.
Monthly Report (one-year minimum subscription required).	<ul style="list-style-type: none"> • \$450.00 per year for the first security issue, plus a one time charge of \$300 per additional copy/recipient for that security issue. • \$225.00 per year for each additional security for the same issuer, plus a one time charge of \$225 per additional copy/recipient.
Dividend Record Date Report (one-year minimum subscription required).	<ul style="list-style-type: none"> • \$150 per year; one year minimum subscription required, plus a one time charge of \$150 per additional copy/recipient for that security issue.
Special Requests	<ul style="list-style-type: none"> • \$120.00 per report, per date request.
Special Requests—Fax	<ul style="list-style-type: none"> • \$25.00 additional per report charge when fax service is specifically requested.
Special Requests—Spreadsheet	<ul style="list-style-type: none"> • \$25.00 additional per report charge when spreadsheet is specifically requested.
Special Requests—Extra Copy	<ul style="list-style-type: none"> • \$25.00 additional fee for the reproduction of previously compiled SPR information.

DTC believes that the proposed rule change is consistent with the requirements of Section 17A of the Act³ and the rules and regulations thereunder applicable to DTC because it should provide for the equitable allocation of reasonable dues, fees, and other charges among the users of DTC's services.

(B) Self-Regulatory Organization's Statement on Burden on Competition

DTC does not believe that the proposed rule change will have any impact or impose any burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments have not been solicited with respect to the proposed rule change, and none have been received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within thirty-five days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to ninety days of such date if it finds such

longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act.

³ 15 U.S.C. 78q-1.

Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to rules@sec.gov. Please include File Number SR-DTC-2009-04 on the subject line.

Paper Comments

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

All submissions should refer to File Number SR-DTC-2009-04. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of DTC and on DTC's Web site at http://www.dtcc.com/downloads/legal/rule_filings/2009/dtc/2009-04.pdf. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-DTC-2009-04 and should be submitted on or before March 12, 2009.

For the Commission by the Division of Trading and Markets, pursuant to delegated authority.⁴

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E9-3429 Filed 2-18-09; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-59382; File No. SR-FINRA-2008-064]

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Order Approving Proposed Rule Change To Amend NASD Interpretive Material (IM) 2110-2 (Trading Ahead of Customer Limit Order)

February 11, 2009.

I. Introduction

On December 17, 2008, Financial Industry Regulatory Authority, Inc. ("FINRA") (f/k/a National Association of Securities Dealers, Inc. ("NASD")) filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")¹ and Rule 19b-4 thereunder,² a proposed rule change to amend NASD Interpretive Material (IM) 2110-2 (Trading Ahead of Customer Limit Order) with respect to the determination of the minimum price improvement obligation in an OTC equity security priced below \$1.00 where there is no published current inside spread or there is only a one-sided quote. The proposed rule change was published for comment in the **Federal Register** on December 31, 2008.³ The Commission received no comment letters on the proposed rule change.

II. Description of the Proposed Rule Change

IM-2110-2 (commonly referred to as the "Manning Rule") generally prohibits a member from trading for its own account at prices that would satisfy a customer's limit order unless the member immediately thereafter executes the customer limit order at the price at which it traded for its own account or at a better price. Under amendments to IM-2110-2 that the Commission approved on September 12, 2008,⁴ and that became effective on November 11, 2008,⁵ IM-2110-2 sets forth the minimum level of price improvement, depending on the price of the customer limit order, that a member must provide in order to trade ahead of an unexecuted customer limit order without triggering

the protections provided by the Manning Rule.

The minimum price improvement tiers set forth in IM-2110-2 are as follows:

(1) For customer limit orders priced greater than or equal to \$1.00, the minimum amount of price improvement required is \$0.01 for NMS stocks and the lesser of \$0.01 or one-half (1/2) of the current inside spread for OTC equity securities;

(2) For customer limit orders priced greater than or equal to \$.01 and less than \$1.00, the minimum amount of price improvement required is the lesser of \$0.01 or one-half (1/2) of the current inside spread;

(3) For customer limit orders priced less than \$.01 but greater than or equal to \$0.001, the minimum amount of price improvement required is the lesser of \$0.001 or one-half (1/2) of the current inside spread;

(4) For customer limit orders priced less than \$.001 but greater than or equal to \$0.0001, the minimum amount of price improvement required is the lesser of \$0.0001 or one-half (1/2) of the current inside spread;

(5) For customer limit orders priced less than \$0.0001 but greater than or equal to \$0.00001, the minimum amount of price improvement required is the lesser of \$0.00001 or one-half (1/2) of the current inside spread;

(6) For customer limit orders priced less than \$0.00001, the minimum amount of price improvement required is the lesser of \$0.000001 or one-half (1/2) of the current inside spread; and

(7) For customer limit orders priced outside the best inside market, the minimum amount of price improvement required must either meet the requirements set forth above or the member must trade at a price at or inside the best inside market for the security.

Therefore, if a firm is holding a customer limit order to buy priced at \$.75 and the applicable minimum price improvement standard is \$.01, the firm would be permitted to buy at \$.76 or higher without triggering the requirements of IM-2110-2.

The proposed rule change is intended to provide members with an alternative method of calculating the minimum price improvement in cases where a member receives a limit order for an OTC equity security priced below \$1.00 and there is no quoted market. The minimum price-improvement standards are either a fixed amount as noted above or one-half (1/2) of the current inside spread. However, where there is no current inside spread, the minimum price-improvement standard defaults to

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 59138 (December 22, 2008), 73 FR 80482.

⁴ See Securities Exchange Act Release No. 58532 (September 12, 2008), 73 FR 54649 (September 22, 2008) (order approving SR-NASD-2007-041).

⁵ See *Regulatory Notice* 08-49 (September 2008).

⁴ 17 CFR 200.30-3(a)(12).

the fixed amount which, in certain circumstances, can lead to an anomalous result. For example, where a member receives a customer limit order priced at \$.01 and there is no current published inside spread, the minimum price-improvement standard would still be equal to \$.01, which would require the member to sell at \$.00 (\$.01 minus \$.01) or buy at \$.02 (\$.01 plus \$.01) to avoid triggering the customer limit order (depending on whether the customer order is a buy or sell order). Therefore, the current rule could have unduly harsh results, particularly in cases where the price is near the edge of a tier and there is no quoted market.

Accordingly, FINRA proposes to amend IM-2110-2 to provide that, for the purpose of determining the minimum price improvement obligation where there is no published current inside spread, member firms may calculate a current inside spread by contacting and obtaining priced quotations from at least two unaffiliated dealers. FINRA believes that obtaining priced quotations from at least two unaffiliated dealers provides an adequate proxy for an inside spread typically displayed for an OTC equity security, and notes that members are free to contact more than two unaffiliated dealers. FINRA also notes that, once the member has obtained bid and ask prices from at least two unaffiliated dealers, the proposed rule requires that the highest bid and lowest offer obtained must be used as the basis for calculating the current inside spread for purposes of determining the member's minimum price improvement obligation. In addition, where there is a one-sided quote, the proposed rule change permits a member to determine the current inside spread by using the best price obtained from at least two unaffiliated dealers on the other side of the quote.

Members must document: (1) The name of each dealer contacted; and (2) the quotations received that were used as the basis for determining the current inside spread. FINRA represents that the proposed rule change would apply solely to minimum price-improvement calculations under IM-2110-2 and would not implicate other rules or requirements (e.g., Three Quote Rule).

III. Discussion and Commission's Findings

After careful review, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national

securities association.⁶ In particular, the Commission finds that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,⁷ which requires, among other things, that FINRA rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest.

The Commission believes that the proposed rule change provides a reasonable method of calculating the current inside spread under IM-2110-2 for OTC equity securities priced below \$1.00 where there is no current published inside spread or there is only a one-sided quote. The Commission notes that FINRA members that use the proposed method of calculating the current inside spread are required to document the name of each dealer contacted and the quotations received for the purposes of determining the current inside spread. The Commission believes that the documentation requirement is important to allow proper oversight of calculating the current inside spread, when there is no current published inside spread, or there is only a one-sided quote, in an OTC equity security priced below \$1.00.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,⁸ that the proposed rule change (SR-FINRA-2008-064) be, and hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.⁹

Florence E. Harmon,
Deputy Secretary.

[FR Doc. E9-3426 Filed 2-18-09; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-59377; File No. SR-ISE-2009-04]

Self-Regulatory Organizations; International Securities Exchange, LLC; Notice of Filing of Proposed Rule Change Relating to the \$1 Strike Program

February 10, 2009.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the

⁶ In approving this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

⁷ 15 U.S.C. 78o-3(b)(6).

⁸ 15 U.S.C. 78s(b)(2).

⁹ 17 CFR 200.30-3(a)(12).

“Act”),¹ and Rule 19b-4 thereunder,² notice is hereby given that on January 21, 2009, the International Securities Exchange, LLC (the “Exchange” or the “ISE”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change, on February 9, 2009, filed Amendment No. 1 to the proposed rule change, and on February 10, 2009 filed partial Amendment No. 2 to the proposed rule change, as described in Items I, II, and III below, which items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The ISE proposes to expand the \$1 Strike Program. The text of the proposed rule change is available on the Exchange's Web site (<http://www.ise.com>), at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections A, B and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to expand the \$1 Strike Program (the “Program”).³ The Program

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ The Commission approved the Program as a pilot on June 16, 2003. See Exchange Act Release No. 48033 (June 16, 2003), 68 FR 37036 (June 20, 2003). The pilot was subsequently extended through June 5, 2008. See Exchange Act Release Nos. 49827 (June 8, 2004), 69 FR 33966 (June 17, 2004) (Extending the pilot until August 5, 2004); 50060 (July 22, 2004), 69 FR 45864 (July 30, 2004) (Extending the pilot for 10 months until June 5, 2005); 51769 (May 31, 2005), 70 FR 33232 (June 7, 2005) (Extending the pilot until June 5, 2006); 53806 (May 15, 2006), 71 FR 29694 (Extending the

currently allows ISE to select a total of 10 individual stocks on which option series may be listed at \$1 strike price intervals. In order to be eligible for selection into the Program, the underlying stock must close below \$50 in its primary market on the previous trading day. If selected for the Program, the Exchange may list strike prices at \$1 intervals from \$3 to \$50, but no \$1 strike price may be listed that is greater than \$5 from the underlying stock's closing price in its primary market on the previous day. The Exchange may also list \$1 strikes on any other option class designated by another securities exchange that employs a similar Program under their respective rules. The Exchange may not list long-term option series ("LEAPS") at \$1 strike price intervals for any class selected for the Program. The Exchange also is restricted from listing any series that would result in strike prices being \$0.50 apart.

The Exchange now proposes to expand the Program to allow ISE to select a total of 55 individual stocks on which option series may be listed at \$1 strike price intervals, and to expand slightly the price range on which the Exchange may list \$1 strikes, *i.e.*, from \$1 to \$50. The existing restrictions on listing \$1 strikes would continue, *i.e.*, no \$1 strike price may be listed that is greater than \$5 from the underlying stock's closing price in its primary market on the previous day, and ISE is restricted from listing any series that would result in strike prices being \$0.50 apart.

As stated in the Commission order that initially approved ISE's Program and in subsequent extensions and expansions of the Program, ISE believes that \$1 strike price intervals provide investors with greater flexibility in the trading of equity options that overlie lower price stocks by allowing investors to establish equity options positions that are better tailored to meet their investment objectives. Indeed, member firms representing customers have repeatedly requested that ISE seek to expand the Program in terms of the number of classes on which option series may be listed at \$1 strike price intervals. The Exchange notes that current market conditions, in which the number of securities trading below \$50 has increased dramatically, further warrant the expansion of the Program.

pilot until June 5, 2007); and 55715 (May 7, 2007), 72 FR 26854 (May 11, 2007) (Extending the pilot until June 5, 2008). The pilot was subsequently expanded and made permanent in 2008. See Exchange Act Release No. 57169 (January 14, 2008), 73 FR 4654 (January 25, 2008) (Approving SR-ISE-2007-110).

The Exchange is also proposing to set forth a delisting policy. Specifically, the Exchange would, on a monthly basis, review series that were originally listed under the \$1 Strike Program with strike prices that are more than \$5 from the current values of the options classes in the Program. The Exchange would delist series with no open interest in both the put and the call series having a: (i) Strike higher than the highest strike price with open interest in the put and/or call series for a given expiration month; and (ii) strike lower than the lowest strike price with open interest in the put and/or call series for a given expiration month.

Notwithstanding the proposed delisting policy, member requests to add strikes and/or maintain strikes in certain options classes in series eligible for delisting may be granted.

Further, in connection with the proposed delisting policy, if the Exchange identifies series for delisting, the Exchange shall notify other options exchanges with similar delisting policies regarding eligible series for listing, and shall work with such other exchanges to develop a uniform list of series to be delisted so as to ensure uniform series delisting of multiply listed options classes. ISE expects that the proposed delisting policy will be adopted by other options exchanges that amend their rules to employ a similar expansion of the Program.

With regard to the impact on system capacity, ISE has analyzed its capacity and represents that it and the Options Price Reporting Authority have the necessary systems capacity to handle the additional traffic associated with the listing and trading of an expanded number of series as proposed by this filing.

The Exchange believes that the Program has provided investors with greater trading opportunities and flexibility and the ability to more closely tailor their investment strategies and decisions to the movement of the underlying security. Furthermore, the Exchange has not detected any material proliferation of illiquid options series resulting from the narrower strike price intervals. For these reasons, ISE requests an expansion of the current Program.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the "Act") and the rules and regulations thereunder and, in particular, the requirements of Section 6(b) of the Act.⁴ Specifically, the Exchange believes the

⁴ 15 U.S.C. 78f.

proposed rule change is consistent with Section 6(b)(5)⁵ requirements that the rules of an exchange be designed to promote just and equitable principles of trade, to prevent fraudulent and manipulative acts, to remove impediments to and perfect the mechanism for a free and open market and a national market system, and, in general, to protect investors and the public interest. The Exchange believes that expanding the current Program will result in a continuing benefit to investors by giving them more flexibility to closely tailor their investment decisions in greater number of securities.

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any unsolicited written comments from members or other interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

- (a) By order approve such proposed rule change; or
- (b) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form <http://www.sec.gov/rules.sro.shtml>; or

⁵ 15 U.S.C. 78f(b)(5).

• Send an e-mail to *rule-comments@sec.gov*. Please include File Number SR-ISE-04 on the subject line.

Paper Comments

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

All submissions should refer to File Number SR-ISE-2009-04. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, on business days between the hours of 10 a.m. and 3 p.m., located at 100 F Street, NE., Washington, DC 20549. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-ISE-2009-04 and should be submitted on or before March 12, 2009.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.⁶

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E9-3422 Filed 2-18-09; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-59393; File No. SR-PHLX-2009-12]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change and Amendment No. 1 Thereto by NASDAQ OMX PHLX, Inc. To Amend the Exchange's Fee Schedule

February 11, 2009.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")¹, and Rule 19b-4 thereunder,² notice is hereby given that on February 2, 2009, NASDAQ OMX PHLX, Inc. ("Phlx" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II, and III, below, which Items have been prepared by the Exchange. On February 9, 2009, the Exchange filed Amendment No. 1 to the proposed rule change. The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the Exchange's Fee Schedule ("Fee Schedule") to: (i) Eliminate the Firm Proprietary Facilitation category of fees from the Equity Options Fees, Index Options Fees and U.S. Dollar-Settled Foreign Currency Option Fees; (ii) redefine what constitutes a firm proprietary order; and (iii) increase the Firm-Related Equity Option and Index Option Cap to \$75,000 and exclude JBO participants (as defined below).

The Exchange has designated these changes to be operative for transactions settling on or after February 2, 2009.

The text of the proposed rule change is available on the Exchange's Website at <http://www.nasdaqtrader.com/micro.aspx?id=PHLXRulefilings>, at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the

proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to eliminate the Firm Proprietary Facilitation³ category from the Fee Schedule in order to create a single category of Firm Proprietary Fees.⁴ It currently applies to Member Organizations for orders in a proprietary account of a Member or non-member broker-dealer that derives more than 35% of its annual, gross revenues from commissions and principal transactions with customers ("35% customer revenue threshold"). The result of eliminating the Firm Proprietary Facilitation category is that all Firm Proprietary transactions will be charged \$.24 per contract, which results in a \$.10 increase over the current Firm Proprietary Facilitation Option Transaction Charges, as the current charge for those types of transaction is currently \$.14. This increase should raise revenue for the Exchange, and, at the same time, simplify the fees applicable to firm proprietary transactions.

In addition, the Exchange proposes to redefine what constitutes a firm proprietary order. The Exchange proposes to delete the 35% customer revenue threshold language from the current language in endnote 5 on the Fee Schedule and replace it with the following language: "Firm Proprietary Options Transaction Charge applies to firm proprietary orders ("F" account type) in all products." The purpose of the 35% threshold was to limit the fees to a certain category of firm trade, namely Firm Proprietary trades. Now, all orders with "F" account types are subject to firm proprietary charges, which is easier to administer from a billing perspective. As a result, the requirement for member organizations to verify the amount to the Exchange

³ A facilitation occurs when a floor broker holds an options order for a public customer and a contra-side order for the same option series and, after providing an opportunity for all persons in the trading crowd to participate in the transaction, executes both orders as a facilitation cross. See Exchange Rule 1064.

⁴ The Exchange currently assesses the applicable Firm Proprietary and Firm Proprietary Facilitation transaction charges on Phlx members.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

⁶ 17 CFR 200.30-3(a)(12).

regarding the threshold is no longer necessary.

The Exchange also proposes to increase the Firm-Related Equity Option and Index Option Cap ("Monthly Firm Cap")⁵, which is set at \$65,000 per month per firm, to \$75,000 per month per firm. This is intended to raise additional revenue for the Exchange and create an incentive for Member Organizations to continue to send order flow to the Exchange. This Monthly Firm Cap would now apply to all Firm Proprietary orders that are ("F" account type) in all products, except for orders of joint back-office ("JBO") participants.⁶ Accordingly, JBO participant orders may employ the F-account type and qualify for the firm proprietary charge, but would not be eligible for the Monthly Firm Cap.⁷

2. Statutory Basis

The Exchange believes that its proposal to amend its schedule of fees is consistent with Section 6(b) of the Act⁸ in general, and furthers the objectives of Section 6(b)(4) of the Act⁹ in particular, in that it is an equitable allocation of reasonable fees and other charges among Exchange members. Eliminating the Firm Proprietary Facilitation category is equitable and reasonable, because it applies to all such orders and results in a reasonable increase over the current charge applicable to firm proprietary facilitation trades. The Exchange also believes that the Monthly Firm Cap is equitable, even though it is not available to JBO participants, because the Exchange intends to compete for non-JBO firm business with the CBOE, who

⁵ See e.g. Securities Exchange Act Release Nos. 54981 (December 20, 2006), 71 FR 78251 (December 28, 2006); 53287 (February 14, 2006), 71 FR 9186 (February 22, 2006); and 56437 (September 13, 2007), 72 FR 53616 (September 19, 2007) (SR-Phlx-2007-65).

⁶ A JBO participant is a Member, Member Organization or non-member organization that maintains a JBO arrangement with a clearing broker-dealer ("JBO Broker") subject to the requirements of Regulation T Section 220.7 of the Federal Reserve System. See also Exchange Rule 703. For purpose of the Monthly Firm Cap, JBO participant orders are excluded because the Exchange is unable to differentiate orders of a JBO participant from orders of its JBO Broker and therefore is unable to aggregate the JBO participant's orders.

⁷ This proposal is similar to a proposed rule change filed by the Chicago Board Options Exchange, Incorporated ("CBOE"). CBOE adopted a Firm Proprietary Sliding Scale based on the number of contracts the firm trades in a month. The sliding scale applies to firm proprietary orders in all products, except for orders of joint back-office ("JBO") participants. See Securities Exchange Act Release No. 57191 (January 24, 2008), 73 FR 5611 (January 30, 2008) (SR-CBOE-2007-150).

⁸ 15 U.S.C. 78f(b).

⁹ 15 U.S.C. 78f(b)(4).

excludes JBO participants from its sliding scale, for the same reason as the Exchange, which is that each is unable to identify these orders from a billing standpoint to bill them correctly.¹⁰

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act¹¹ and paragraph (f)(2) of Rule 19b-4¹² thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.¹³

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-Phlx-2009-12 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission,

100 F Street, NE., Washington, DC 20549-1090.

All submissions should refer to File Number SR-Phlx-2009-12. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing will also be available for inspection and copying at the principal office of the self-regulatory organization. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-Phlx-2009-12 and should be submitted on or before March 12, 2009.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁴

Florence E. Harmon,
Deputy Secretary.

[FR Doc. E9-3464 Filed 2-18-09; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-59394; File No. SR-NYSEALTR-2009-11]

Self-Regulatory Organizations; NYSE Alternext U.S. LLC; Notice of Filing of a Proposed Rule Change Amending Rule 903

February 11, 2009.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),¹ and Rule 19b-4 thereunder,²

¹⁴ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

¹⁰ See *supra* notes 6 and 7.

¹¹ 15 U.S.C. 78s(b)(3)(A)(ii).

¹² 17 CFR 240.19b-4(f)(2).

¹³ For purposes of calculating the 60-day period within which the Commission may summarily abrogate the proposed rule change under Section 19(b)(3)(C) of the Act, the Commission considers the period to commence on February 9, 2009, the date on which the Exchange submitted Amendment No. 1. See 15 U.S.C. 78s(b)(3)(C).

notice is hereby given that on February 10, 2009, NYSE Alternext US LLC ("NYSE Alternext," "NYSE Amex" or the "Exchange") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

NYSE Alternext US LLC is proposing to amend Rule 903, Series of Options Open for Trading, to expand the \$1 Strike Program. Changes to the rule text are shown in Exhibit 5 of the filing. A copy of this filing is available on the Exchange's Web site at <http://www.nyse.com>, at the Exchange's principal office and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The \$1 Strike Program currently allows NYSE Amex to select a total of 10 individual stocks on which options series may be listed at \$1 strike price intervals. In order to be eligible for selection into the Program, the underlying stock must close below \$50 in its primary market on the previous trading day. If selected for the Program, the Exchange may list strike prices at \$1 intervals from \$3 to \$50, but no \$1 Strike Price may be listed that is greater than \$5 from the underlying stock's closing price on its primary market on the previous day. The Exchange may also list \$1 strikes on any other option class designated by another securities exchange that employs a similar Program under their respective rules.

The Exchange may not list long-term option series ("LEAPS") at \$1 strike price intervals for any class selected for the Program. The Exchange is also restricted from listing any series that would result in strike prices being \$.50 apart.

The Exchange now proposes to expand the Program to allow NYSE Amex to select a total of 55 individual stocks on which option series may be listed in \$1 strike price intervals, and to expand slightly the price range on which the Exchange may list \$1 strikes, *i.e.*, from \$1 to \$50. The existing restrictions on listing \$1 strikes would continue, *i.e.*, no \$1 strike price may be listed that is greater than \$5 from the underlying stock's closing price in its primary market on the previous day, and NYSE Amex is restricted from listing any series that would result in strike prices being \$.50 apart.

NYSE Amex believes that \$1 strike price intervals provide investors with greater flexibility in the trading of equity options that overlie lower price stocks by allowing investors to establish equity options positions that are better tailored to meet their investment objectives. The Exchange notes that current market conditions, in which the number of securities trading below \$50 has increased dramatically, further warrant the expansion of the Program.

The Exchange is also proposing to set forth a delisting policy. Specifically, the Exchange would, on a monthly basis, review series that were originally listed under the \$1 Strike Program with strike prices that are more than \$5 from the current values of the options classes in the Program. The Exchange would delist series with no open interest in both the put and the call series having a: (i) Strike higher than the highest strike price with open interest in the put and/or call series for a given expiration month; and (ii) strike lower than the lowest strike price with open interest in the put and/or call series for a given expiration month.

Notwithstanding the proposed delisting policy, NYSE Amex could grant ATP Holder requests to add strikes and/or maintain strikes in certain options classes in series eligible for delisting.

Further, in connection with the proposed delisting policy, if the Exchange identifies series for delisting, the Exchange shall notify other options exchanges with similar delisting policies regarding eligible series for listing, and shall work with such other exchanges to develop a uniform list of series to be delisted, so as to ensure uniform series delisting of multiply listed options classes. NYSE Amex

expects that the proposed delisting policy will be adopted by other options exchanges that amend their rules to employ a similar expansion of the Program.

With regard to the impact on system capacity, NYSE Amex has analyzed its capacity and represents that it and the Options Price Reporting Authority have the necessary systems capacity to handle the additional traffic associated with the listing and trading of an expanded number of options series as proposed by this filing.

The Exchange believes that the \$1 Strike Program has provided investors with greater trading opportunities and flexibility and the ability to more closely tailor their investment strategies and decisions to the movement of the underlying security. Furthermore, the Exchange has not detected any material proliferation of illiquid options series resulting from the narrower strike price intervals. For these reasons, NYSE Amex requests an expansion of the current Program.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with and furthers the objectives of Section 6(b)(5) of the Act, in that it is designed to promote just and equitable principles of trade, remove impediments to and perfect the mechanisms of a free and open market and a national market system and, in general, to protect investors and the public interest, in that it provides for a greater number of available strike prices in lower priced underlying issues, and thus allows investors to better tailor their investments to meet their needs.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such

longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form <http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-NYSEALTR-2009-11 on the subject line.

Paper Comments

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

All submissions should refer to File Number SR-NYSEALTR-2009-11. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, on business days between the hours of 10 a.m. and 3 p.m., located at 100 F Street, NE., Washington, DC 20549. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that

you wish to make available publicly. All submissions should refer to File Number SR-NYSEALTR-2009-11 and should be submitted on or before March 12, 2009.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.³

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E9-3465 Filed 2-18-09; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-59385; File No. SR-OCC-2009-02]

Self-Regulatory Organizations; the Options Clearing Corporation; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Clarify Exchange Directorships Under Its By-Laws

February 11, 2009.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ notice is hereby given that on January 12, 2009, The Options Clearing Corporation ("OCC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change described in Items I, II, and III below, which items have been prepared primarily by OCC. The Commission is publishing this notice to solicit comments on the proposed rule change from interested parties.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The purpose of the proposed rule change is to clarify that for purposes of OCC's By-Laws, including quorum and voting, an individual may serve as an Exchange Director for more than one exchange and that that individual counts as a separate director for each exchange represented.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, OCC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. OCC has prepared summaries, set forth in sections (A), (B),

and (C) below, of the most significant aspects of these statements.²

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of the proposed rule change is to clarify that for all purposes under the By-Laws, including quorum and voting, an individual may occupy more than one Exchange directorship and that if an individual does so, he or she counts as a separate director for each such Exchange represented.

OCC believes that the proposed rule change is consistent with the requirements of Section 17A of the Act³ and the rules and regulations thereunder applicable to OCC because the proposed rule change assures a fair representation of OCC's shareholders in the administration of its affairs by eliminating any ambiguity as to what constitutes a quorum and how votes shall be counted in the situation where an individual occupies more than one Exchange directorship.

(B) Self-Regulatory Organization's Statement on Burden on Competition

OCC does not believe that the proposed rule change will have any impact on or impose any burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments relating to the proposed rule change have been solicited or received. OCC will notify the Commission of any written comments received by OCC.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective upon filing pursuant to Section 19(b)(3)(A)(i) of the Act⁴ and Rule 19b-4(f)(1)⁵ thereunder because the proposed rule change constitutes a stated policy, practice, or interpretation with respect to the meaning, administration, or enforcement of an existing rule of OCC. At any time within sixty days of the filing of such rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors,

² The Commission has modified the text of the summaries prepared by OCC.

³ 15 U.S.C. 78q-1.

⁴ 15 U.S.C. 78s(b)(3)(A)(i).

⁵ 17 CFR 240.19b-4(f)(1).

³ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>) or
- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-OCC-2009-02 on the subject line.

Paper Comments

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

All submissions should refer to File Number SR-OCC-2009-02. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filings also will be available for inspection and copying at the principal office of OCC and on OCC's Web site at http://www.optionsclearing.com/publications/rules/proposed_changes/sr_occ_09_02.pdf. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-OCC-2009-02 and should be submitted on or before March 12, 2009.

For the Commission by the Division of Trading and Markets, pursuant to delegated authority.⁶

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E9-3427 Filed 2-18-09; 8:45 am]

BILLING CODE 8011-01-P

DEPARTMENT OF STATE

[Public Notice 6529]

60-Day Notice of Proposed Information Collection: DS-158, Contact Information and Work History for Nonimmigrant, OMB Control Number 1405-0144

ACTION: Notice of request for public comments.

SUMMARY: The Department of State is seeking Office of Management and Budget (OMB) approval for the information collection described below. The purpose of this notice is to allow 60 days for public comment in the **Federal Register** preceding submission to OMB. We are conducting this process in accordance with the Paperwork Reduction Act of 1995.

- *Title of Information Collection:* Contact Information and Work History for Nonimmigrant.
- *OMB Control Number:* 1405-0144.
- *Type of Request:* Extension of a Currently Approved Collection.
- *Originating Office:* CA/VO.
- *Form Number:* DS-158.
- *Respondents:* Nonimmigrant visa applicants.
- *Estimated Number of Respondents:* 700,000.
- *Estimated Number of Responses:* 700,000.
- *Average Hours per Response:* 1 hour.
- *Total Estimated Burden:* 700,000 hours.
- *Frequency:* Once per applicant.
- *Obligation to Respond:* Required to Obtain or Retain a Benefit.

DATES: The Department will accept comments from the public up to 60 days from February 19, 2009.

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

- *Web:* Persons with access to the internet may also view and comment on this notice by going to the regulations.gov Web site at <http://www.regulations.gov/index/cfm>.
- *Mail (paper, disk, or CD-ROM submissions):* Chief, Legislation and Regulations Division, Visa Services—DS-160, 2401 E. Street, NW., Washington, DC 20520-30106.

⁶ 17 CFR 200.30-3(a)(12).

You must include the DS form number (if applicable), information collection title, and OMB control number in any correspondence.

FOR FURTHER INFORMATION CONTACT:

Direct requests for additional information regarding the collection listed in this notice, including requests for copies of the proposed information collection and supporting documents, to Lauren Prosnik, Visa Services, U.S. Department of State, 2401 E Street, NW., L-603, Washington, DC 20522, who may be reached at (202) 663-2951.

SUPPLEMENTARY INFORMATION: We are soliciting public comments to permit the Department to:

- Evaluate whether the proposed information collection is necessary for the proper performance of our functions.
- Evaluate the accuracy of our estimate of the burden of the proposed collection, including the validity of the methodology and assumptions used.
- Enhance the quality, utility, and clarity of the information to be collected.

- Minimize the reporting burden on those who are to respond, including the use of automated collection techniques or other forms of technology.

Abstract of proposed collection:

The DS-158 is used to collect supplemental information from students wishing to obtain a nonimmigrant visa to study in the United States.

Methodology:

Applicants may fill out the DS-158 online or print the page and fill it out by hand, and submit it in person at the time of interview.

Dated: February 6, 2009.

David T. Donahue,

Deputy Assistant Secretary, Bureau of Consular Affairs, Department of State.

[FR Doc. E9-3527 Filed 2-18-09; 8:45 am]

BILLING CODE 4710-06-P

DEPARTMENT OF STATE

[Public Notice 6530]

Bureau of Educational and Cultural Affairs (ECA) Request for Grant Proposals: EducationUSA Advising Coordination and Support Program

Announcement Type: New Cooperative Agreement Funding.

Opportunity Number: ECA/A/S/A-10-03.

Catalog of Federal Domestic Assistance Number: 00.000.

Key Dates: Program Start Date: October 1, 2009 (pending the availability of funds).

Application Deadline: April 24, 2009.

Executive Summary: The Educational Information and Resources Branch in the Office of Global Educational Programs of the Bureau of Educational and Cultural Affairs (ECA) announces an open competition for up to five assistance awards to administer components of the Office's EducationUSA Advising Coordination and Support Program in Fiscal Year 2010. Public and private non-profit organizations or consortia of eligible organizations meeting the provisions described in Internal Revenue Code section 501(c)(3) may submit proposals to cooperate with the Bureau in the administration of the EducationUSA Advising Coordination and Support Program as noted below.

To facilitate effective communication between ECA's Educational Information and Resources Branch (ECA/A/S/A) and the organizations cooperating on this program, award recipients must have a Washington, DC presence. Applicants who do not currently have a Washington, DC presence must include in their proposals a detailed plan for establishing such a presence by October 1, 2009. The costs related to establishing such a presence must be borne by the award recipient. No such costs may be included in the budget submission in this proposal. The award recipient must have e-mail capability, access to Internet resources, and the ability to exchange data electronically with all partners involved in the EducationUSA Advising Coordination and Support Program.

The goal of this program is to increase student mobility between the United States and other countries by providing support to EducationUSA, the network of overseas educational advising centers affiliated with the Department of State. EducationUSA centers operate in a wide variety of institutional settings around the world, including binational Fulbright Commissions, Public Affairs Sections of U.S. Embassies, independent binational centers, foreign universities, and the overseas offices of U.S. non-government organizations. The support of the Bureau of Educational and Cultural Affairs for these centers varies by center and region, and ranges from support for educational resources and the professional development of advising staffs to, in a limited number of locations, direct support for office operations. In addition, all EducationUSA centers receive specialized, highly tailored advice from Bureau-supported regional and country educational advising coordinators who currently are based in fourteen locations in every world region.

EducationUSA centers are catalysts for the enrollment in U.S. colleges and

universities of students and scholars sponsored by the U.S. government and by other sponsors as well as students and scholars seeking U.S. study opportunities independently. The advising staffs at EducationUSA centers provide comprehensive, balanced advice about the complex range of higher educational opportunities in the United States to international students, parents, scholars, and foreign government officials. EducationUSA centers also assist U.S. institutions of higher education in their overseas outreach efforts. In addition, the EducationUSA network encourages study abroad by Americans and the development of study abroad opportunities by U.S. universities. The use of the EducationUSA logo is critical to the identity of the network. More information on the network and a current EducationUSA center list is located at <http://www.educationusa.state.gov>.

Applicant organizations may submit proposals for the following components of the EducationUSA Advising Coordination and Support Program:

Component A: Regional and Country EducationUSA Advising Coordination

One recipient organization will provide programmatic oversight, maintain channels of communication, organize professional development opportunities and provide logistical support and human resources services to regional and country advising coordinators as follows:

- Regional Educational Advising Coordinators (REACs) based in Sub-Saharan Africa (two locations), Europe and Eurasia (two or more locations), East Asia and the Pacific (three locations including China, North Asia and Southeast Asia), North Africa and the Middle East, South and Central Asia (two or more locations, including India), and the Western Hemisphere (three locations, including Mexico, Brazil, and a country on the Pacific coast of South America). Applicant organizations may propose specific locations within the countries and regions specified above.
- Country Coordinators based in Brazil, China, Indonesia, Russia, and Vietnam. Applicant organizations may propose specific locations within these countries.

The recipient organization will support the EducationUSA advising effort through coordinated outreach and marketing to international student audiences, on-going communication of substantive advice about educational issues to EducationUSA centers, and the innovative use of technology. The marketing effort should be coordinated

by a full-time marketing coordinator whose responsibilities should include the coordination of updated online materials in key languages such as Persian, Russian, Chinese, Arabic, Spanish, French, Portuguese, Japanese, Bahasa Indonesia and Vietnamese. Other languages may be included based on consultation with ECA/A/S/A. The recipient organization will also ensure that the coordinators prepare and provide to the Bureau, U.S. embassies and Fulbright commissions annual assessments of current issues faced by EducationUSA advising centers with specific reference to regional trends in student mobility. Coordinators should also provide, for review and approval by ECA/A/S/A, periodic recommendations of reference materials, equipment, and professional development opportunities to meet the needs of EducationUSA centers and their advising staffs in the coordinators' countries or regions of responsibility. Additional information about Component A is provided in the Project Objectives, Goals and Implementation (POGI).

Component B: EducationUSA Center Advising Support

One or more recipient organizations will provide operational support to EducationUSA advising centers in the following regions:

- (1) Eurasia/Central Asia (Armenia, Azerbaijan, Belarus, Georgia, Kazakhstan, Kyrgyzstan, Moldova, Russia, Tajikistan, Turkmenistan and Ukraine).
- (2) Middle East/North Africa (Egypt, Gaza, Jordan, Kuwait, Lebanon, Morocco, Oman, Syria, Tunisia, West Bank, and Yemen).
- (3) East Asia (China, Mongolia, Vietnam).
- (4) Western Hemisphere (Guatemala, Mexico).

Although educational advising centers belonging to the EducationUSA network in countries and regions not listed above may not receive direct operational support from the Bureau under Component B of this program, all EducationUSA advising centers worldwide will be eligible for support from the Bureau for professional development, reference materials, equipment, outreach efforts, and coordinator support through Component A and other mechanisms.

In addition, support for EducationUSA centers in Eurasia/Central Asia and the Middle East/North Africa includes administrative and program support for a program of Opportunity Scholarships. This program provides support to well qualified international students of limited

financial means to cover the up-front costs of applying for admission and financial aid, as well as the costs of visas and international travel. Proposals should address how the organization will engage educational advisers in the identification of candidates and how the administrative efforts in the affected advising centers will give priority to this initiative.

Proposals for the Middle East/North Africa may include requests for support for online outreach to Iranians in English and Persian.

Additional information about Component B, including a list of countries in which EducationUSA Centers are currently eligible to participate in the Opportunity Scholarships program, is provided in the Project Objectives, Goals and Implementation (POGI).

I. Funding Opportunity Description

Authority: Overall grant making authority for this program is contained in the Mutual Educational and Cultural Exchange Act of 1961, Public Law 87-256, as amended, also known as the Fulbright-Hays Act. The purpose of the Act is "to enable the Government of the United States to increase mutual understanding between the people of the United States and the people of other countries * * *; to strengthen the ties which unite us with other nations by demonstrating the educational and cultural interests, developments, and achievements of the people of the United States and other nations * * * and thus to assist in the development of friendly, sympathetic and peaceful relations between the United States and the other countries of the world." The funding authority for the program above is provided through legislation.

Purpose: To facilitate and increase the flow of international students to the U.S. in an effort to deepen and expand understanding of U.S. society, culture, and values in other countries, and to expand the understanding of foreign cultures and societies by Americans through the increased participation of U.S. students in academically sound study abroad programs in a widening range of international locations, especially in non-traditional study abroad destinations. The work of EducationUSA centers is critical to the Bureau's pursuit of these objectives.

Additional Guidelines

Applicant organizations must submit separate proposals with budgets and narratives outlining a comprehensive strategy for the administration and implementation of each program component for which they are applying;

Component A: Regional and Country EducationUSA Advising Coordination;

Component B: EducationUSA Center Advising Support (in one or more of four specified regions—Eurasia/Central Asia, Middle East/North Africa, East Asia, and the Western Hemisphere).

Organizations may apply for either or both components of the program and for one or more regions under Component B. Organizations submitting proposals under Component B for more than one region should submit one proposal for each region proposed. Each proposal submitted for this competition should reflect a vision that includes innovative ideas and recommendations.

The narrative portion of the proposal for each program component should not exceed 20 pages. Proposals may utilize appendices to illustrate elements of the narrative. Applicants must also provide a separate administrative and program budget for each program component. Where possible, proposals for more than one component or for more than one region under Component B should reflect economies of scale and demonstrate administrative efficiencies.

Please refer to the Project Objectives, Goals and Implementation (POGI) for further information.

II. Award Information

Type of Award: Cooperative Agreement(s). In a cooperative agreement, the Bureau is substantially involved in program activities above and beyond routine monitoring. ECA/A/S/A activities and responsibilities for this program are to:

- Participate in staff selection, review staffing requirements, travel plans, budgets, and policy guidance and direction;

- Maintain direct role in monitoring coordinators' relationships with advisers, Public Affairs Sections, ECA offices, U.S. universities and other organizations;

- Assist, where necessary and possible, with requirements for coordinator access to U.S. embassies.

Where possible, arrange for APO or pouch privileges for coordinators to facilitate receipt of educational materials;

- Consult coordinators on the development of annual regional strategic plans; approve travel plans, adviser travel grants, professional development, workshops, venues, agendas; consult regarding substantive advising issues;

- Assist with meetings of regional and country coordinators;

- Meet with coordinators on other occasions as necessary;

- Work with Public Affairs sections at U.S. embassies and consulates to oversee and evaluate the quality of advising services and to identify appropriate center locations;

- Review for approval requests for funding for reference materials, workshops, and outreach.

The amount that will be available for this program in FY2010 resources cannot be determined until FY2010 funds are appropriated. However, for planning purposes applicant organizations may submit budgets in this competition in the amounts noted below.

Fiscal Year Funds: FY2010

Approximate Total Funding: Approximately \$7,900,000, pending availability of FY2010 funds.

Component A: Regional and Country EducationUSA Advising Coordination—approximately \$4,300,000.

Component B: EducationUSA Advising Support:

a. Eurasia/Central Asia—approximately \$1,700,000.

b. Middle East/North Africa—approximately \$800,000.

c. East Asia—up to approximately \$1,000,000.

d. Western Hemisphere—approximately \$100,000.

Approximate Number of Awards: At least two, not more than five.

Approximate Average Award: Not Applicable.

Floor of Award Range: approximately \$100,000.

Ceiling of Award Range: approximately \$4,300,000.

Anticipated Award Date: Pending availability of funds, October 1, 2009.

Additional Information: Pending successful implementation of this program and the availability of funds in subsequent fiscal years, it is ECA's intent to renew cooperative agreements issued in response to this solicitation for up to two additional fiscal years, before openly competing the programs again.

III. Eligibility Information

III.1. Eligible applicants: Applications may be submitted by public and private non-profit organizations meeting the provisions described in Internal Revenue Code section 26 U.S.C. 501(c)(3).

III.2. Cost Sharing or Matching Funds: There is no minimum or maximum percentage required for this competition. However, the Bureau encourages applicants to provide maximum levels of cost sharing and funding in support of its programs.

When cost sharing is offered, it is understood and agreed that the

applicant must provide the amount of cost sharing as stipulated in its proposal and later included in an approved agreement. Cost sharing may be in the form of allowable direct or indirect costs. For accountability, you must maintain written records to support all costs which are claimed as your contribution, as well as costs to be paid by the Federal government. Such records are subject to audit. The basis for determining the value of cash and in-kind contributions must be in accordance with OMB Circular A-110, (Revised), Subpart C.23—Cost Sharing and Matching. In the event you do not provide the minimum amount of cost sharing as stipulated in the approved budget, ECA's contribution will be reduced in like proportion.

III.3. Other Eligibility Requirements: (a.) Bureau grant guidelines require that organizations with less than four years experience in conducting international exchanges be limited to \$60,000 in Bureau funding. ECA anticipates making between two and five awards, in amounts over \$60,000 to support program and administrative costs required to implement this exchange program. Therefore, organizations with less than four years experience in conducting international exchanges are ineligible to apply under this competition. The Bureau encourages applicants to provide maximum levels of cost sharing and funding in support of its programs.

IV. Application and Submission Information

Note: Please read the complete announcement before sending inquiries or submitting proposals. Once the RFGP deadline has passed, Bureau staff may not discuss this competition with applicants until the proposal review process has been completed.

IV.1 Contact Information to Request an Application Package: Please contact the Office of Global Educational Programs, ECA/A/S/A, Room 349, U.S. Department of State, SA-44, 301 4th Street, SW., Washington, DC 20547, telephone: 202-453-8866, fax number: 202-453-8890, e-mail:

MoraDD@state.gov to request a Solicitation Package. Please refer to the Funding Opportunity Number ECA/A/S//A-10-03 located at the top of this announcement when making your request. Alternatively, an electronic application package may be obtained from grants.gov. Please see section IV.3f for further information.

The Solicitation Package contains the Proposal Submission Instruction (PSI) document which consists of required

application forms, and standard guidelines for proposal preparation.

It also contains the Project Objectives, Goals and Implementation (POGI) document, which provides specific information, award criteria and budget instructions tailored to this competition.

Please specify Dorothy Mora, Program Officer, and refer to the Funding Opportunity Number ECA/A/S/A-10-03 located at the top of this announcement on all other inquiries and correspondence.

IV.2. To Download a Solicitation Package Via Internet: The entire Solicitation Package may be downloaded from the Bureau's Web site at <http://exchanges.state.gov/grants/open2.html>, or from the Grants.gov Web site at <http://www.grants.gov>.

Please read all information before downloading.

IV.3. Content and Form of Submission: Applicants must follow all instructions in the Solicitation Package. The application should be submitted per the instructions under IV.3f. "Application Deadline and Methods of Submission" section below.

IV.3a. You are required to have a Dun and Bradstreet Data Universal Numbering System (DUNS) number to apply for a grant or cooperative agreement from the U.S. Government. This number is a nine-digit identification number, which uniquely identifies business entities. Obtaining a DUNS number is easy and there is no charge. To obtain a DUNS number, access <http://www.dunandbradstreet.com> or call 1-866-705-5711. Please ensure that your DUNS number is included in the appropriate box of the SF-424 which is part of the formal application package.

IV.3b. All proposals must contain an executive summary, proposal narrative and budget.

Please refer to the Solicitation Package. It contains the mandatory Proposal Submission Instructions (PSI) document and the Project Objectives, Goals and Implementation (POGI) document for additional formatting and technical requirements.

IV.3c. You must have nonprofit status with the IRS at the time of application. **Please note:** Effective January 7, 2009, all applicants for ECA federal assistance awards must include in their application the names of directors and/or senior executives (current officers, trustees, and key employees, regardless of amount of compensation). In fulfilling this requirement, applicants must submit information in one of the following ways:

(1) Those who file Internal Revenue Service Form 990, "Return of

Organization Exempt From Income Tax," must include a copy of relevant portions of this form.

(2) Those who do not file IRS Form 990 must submit information above in the format of their choice.

In addition to final program reporting requirements, award recipients will also be required to submit a one-page document, derived from their program reports, listing and describing their grant activities. For award recipients, the names of directors and/or senior executives (current officers, trustees, and key employees), as well as the one-page description of grant activities, will be transmitted by the State Department to OMB, along with other information required by the Federal Funding Accountability and Transparency Act (FFATA), and will be made available to the public by the Office of Management and Budget on its USASpending.gov Web site as part of ECA's FFATA reporting requirements.

If your organization is a private nonprofit which has not received a grant or cooperative agreement from ECA in the past three years, or if your organization received nonprofit status from the IRS within the past four years, you must submit the necessary documentation to verify nonprofit status as directed in the PSI document. Failure to do so will cause your proposal to be declared technically ineligible.

IV.3d. Please take into consideration the following information when preparing your proposal narrative:

IV.3d.1 Adherence To All Regulations Governing the J Visa: For applicants' information only, the Bureau of Educational and Cultural Affairs places critically important emphases on the security and proper administration of the Exchange Visitor (J visa) Programs and adherence by award recipients and sponsors to all regulations governing the J visa. Therefore, proposals should demonstrate the applicant's capacity to meet all requirements governing the administration of the Exchange Visitor Programs as set forth in 22 CFR 62, including the oversight of Responsible Officers and Alternate Responsible Officers, screening and selection of program participants, provision of pre-arrival information and orientation to participants, monitoring of participants, proper maintenance and security of forms, record-keeping, reporting and other requirements. The award recipient will be responsible for issuing DS-2019 forms to participants in this program.

A copy of the complete regulations governing the administration of Exchange Visitor (J) programs is available at <http://exchanges.state.gov> or from: United States Department of

State, Office of Exchange Coordination and Designation, ECA/EC/ECD—SA—44, Room 734, 301 4th Street, SW., Washington, DC 20547, Telephone: (202) 203-5029, FAX: (202) 453-8640.

Please refer to Solicitation Package for further information.

IV.3d.2 Diversity, Freedom and Democracy Guidelines: Pursuant to the Bureau's authorizing legislation, programs must maintain a non-political character and should be balanced and representative of the diversity of American political, social, and cultural life. "Diversity" should be interpreted in the broadest sense and encompass differences including, but not limited to ethnicity, race, gender, religion, geographic location, socio-economic status, and disabilities. Applicants are strongly encouraged to adhere to the advancement of this principle both in program administration and in program content. Please refer to the review criteria under the 'Support for Diversity' section for specific suggestions on incorporating diversity into your proposal. Public Law 104-319 provides that "in carrying out programs of educational and cultural exchange in countries whose people do not fully enjoy freedom and democracy," the Bureau "shall take appropriate steps to provide opportunities for participation in such programs to human rights and democracy leaders of such countries." Public Law 106-113 requires that the governments of the countries described above do not have inappropriate influence in the selection process. Proposals should reflect advancement of these goals in their program contents, to the full extent deemed feasible.

IV.3d.3. Program Monitoring and Evaluation: Proposals must include a plan to monitor and evaluate the project's success, both as the activities unfold and at the end of the program. The Bureau recommends that your proposal include a draft survey questionnaire or other technique plus a description of a methodology to use to link outcomes to original project objectives. The Bureau expects that the recipient organization will track participants or partners and be able to respond to key evaluation questions, including satisfaction with the program, learning as a result of the program, changes in behavior as a result of the program, and effects of the program on institutions (institutions in which participants work or partner institutions). The evaluation plan should include indicators that measure gains in mutual understanding as well as substantive knowledge.

Successful monitoring and evaluation depend heavily on setting clear goals

and outcomes at the outset of a program. Your evaluation plan should include a description of your project's objectives, your anticipated project outcomes, and how and when you intend to measure these outcomes (performance indicators). The more that outcomes are "smart" (specific, measurable, attainable, results-oriented, and placed in a reasonable time frame), the easier it will be to conduct the evaluation. You should also show how your project objectives link to the goals of the program described in this RFGP.

Your monitoring and evaluation plan should clearly distinguish between program outputs and outcomes. Outputs are products and services delivered, often stated as an amount. Output information is important to show the scope or size of project activities, but it cannot substitute for information about progress towards outcomes or the results achieved. Examples of outputs include the number of people trained or the number of seminars conducted. Outcomes, in contrast, represent specific results a project is intended to achieve and is usually measured as an extent of change. Findings on outputs and outcomes should both be reported, but the focus should be on outcomes.

We encourage you to assess the following four levels of outcomes, as they relate to the program goals set out in the RFGP (listed here in increasing order of importance):

1. *Participant satisfaction* with the program and exchange experience.
2. *Participant learning*, such as increased knowledge, aptitude, skills, and changed understanding and attitude. Learning includes both substantive (subject-specific) learning and mutual understanding.
3. *Participant behavior*, concrete actions to apply knowledge in work or community; greater participation and responsibility in civic organizations; interpretation and explanation of experiences and new knowledge gained; continued contacts between participants, community members, and others.
4. *Institutional changes*, such as increased collaboration and partnerships, policy reforms, new programming, and organizational improvements.

Please note: Consideration should be given to the appropriate timing of data collection for each level of outcome. For example, satisfaction is usually captured as a short-term outcome, whereas behavior and institutional changes are normally considered longer-term outcomes.

Overall, the quality of your monitoring and evaluation plan will be judged on how well it: (1) Specifies

intended outcomes; (2) gives clear descriptions of how each outcome will be measured; (3) identifies when particular outcomes will be measured; and (4) provides a clear description of the data collection strategies for each outcome (i.e., surveys, interviews, or focus groups). (Please note that evaluation plans that deal only with the first level of outcomes [satisfaction] will be deemed less competitive under the present evaluation criteria.)

Recipient organizations will be required to provide reports analyzing their evaluation findings to the Bureau in their regular program reports. All data collected, including survey responses and contact information, must be maintained for a minimum of three years and provided to the Bureau upon request.

IV.3d.4. Describe your plans for: i.e. sustainability, overall program management, staffing, coordination with ECA and PAS or any other requirements etc.

IV.3e. Please take the following information into consideration when preparing your budget:

IV.3e.1. Applicants must submit SF-424A—"Budget Information—Non-Construction Programs" along with a comprehensive budget for the entire program. There must be a summary budget as well as breakdowns reflecting both administrative and program budgets. Applicants may provide separate sub-budgets for each program component, phase, location, or activity to provide clarification. Indirect costs may not be charged against participant program costs.

IV.3e.2. Allowable costs for the program include the following:

- (1) REAC manager, Regional and Country Coordinator, and Marketing/Technology Coordinator salaries, benefits, health insurance, retirement;
- (2) Costs for coordinator professional development and for facilitating communication and information flow among coordinators and with advising centers;
- (3) Part-time assistant salaries;
- (4) Coordinator travel;
- (5) Logistical support and equipment;
- (6) Cost of organizing regional adviser professional development programs;
- (7) Advising center staff salaries and benefits;
- (8) Reference materials, computer equipment for centers and coordinators;
- (9) Office supplies and expenses, including rent, communications, postage and shipping;
- (10) Outreach, publicity, and special projects costs;
- (11) Indirect costs. Indirect costs may not be charged against participant program costs.

Please refer to the Solicitation Package for complete budget guidelines and formatting instructions.

IV.3f. Application Deadline and Methods of Submission:

Application Deadline Date: Friday, April 24, 2009.

Reference Number: ECA/A/S/A-10-03.

Methods of Submission: Applications may be submitted in one of two ways:

(1.) In hard-copy, via a nationally recognized overnight delivery service (i.e., DHL, Federal Express, UPS, Airborne Express, or U.S. Postal Service Express Overnight Mail, etc.), or

(2.) Electronically through <http://www.grants.gov>.

Along with the Project Title, all applicants must enter the above Reference Number in Box 11 on the SF-424 contained in the mandatory Proposal Submission Instructions (PSI) of the solicitation document.

IV.3f.1 Submitting Printed Applications:

Applications must be shipped no later than the above deadline. Delivery services used by applicants must have in-place, centralized shipping identification and tracking systems that may be accessed via the Internet and delivery people who are identifiable by commonly recognized uniforms and delivery vehicles. Proposals shipped on or before the above deadline but received at ECA more than seven days after the deadline will be ineligible for further consideration under this competition. Proposals shipped after the established deadlines are ineligible for consideration under this competition. ECA will not notify you upon receipt of application. It is each applicant's responsibility to ensure that each package is marked with a legible tracking number and to monitor/confirm delivery to ECA via the Internet. Delivery of proposal packages may not be made via local courier service or in person for this competition. Faxed documents will not be accepted at any time. Only proposals submitted as stated above will be considered.

Important note: When preparing your submission please make sure to include one extra copy of the completed SF-424 form and place it in an envelope addressed to "ECA/EX/PM".

The original and eight copies of the application should be sent to: U.S. Department of State, SA-44, Bureau of Educational and Cultural Affairs, Ref.: ECA/A/S/A-10-03, Program Management, ECA/EX/PM, Room 534, 301 4th Street, SW., Washington, DC 20547.

Applicants submitting hard-copy applications must also submit the

"Executive Summary" and "Proposal Narrative" sections of the proposal in text (.txt) or Microsoft Word format on a PC-formatted disk. The Bureau will provide these files electronically to the appropriate Public Affairs Sections at the U.S. embassies for their review.

IV.3f.2—Submitting Electronic Applications: Applicants have the option of submitting proposals electronically through Grants.gov (<http://www.grants.gov>). Complete solicitation packages are available at Grants.gov in the "Find" portion of the system. Please follow the instructions available in the "Get Started" portion of the site (<http://www.grants.gov/GetStarted>).

Several of the steps in the Grants.gov registration process could take several weeks. Therefore, applicants should check with appropriate staff within their organizations immediately after reviewing this RFGP to confirm or determine their registration status with Grants.gov.

Once registered, the amount of time it can take to upload an application will vary depending on a variety of factors including the size of the application and the speed of your Internet connection. In addition, validation of an electronic submission via Grants.gov can take up to two business days.

Therefore, we strongly recommend that you not wait until the application deadline to begin the submission process through Grants.gov.

The Grants.gov Web site includes extensive information on all phases/aspects of the Grants.gov process, including an extensive section on frequently asked questions, located under the "For Applicants" section of the Web site. ECA strongly recommends that all potential applicants review thoroughly the Grants.gov Web site, well in advance of submitting a proposal through the Grants.gov system. ECA bears no responsibility for data errors resulting from transmission or conversion processes.

Direct all questions regarding Grants.gov registration and submission to: Grants.gov Customer Support, Contact Center Phone: 800-518-4726, Business Hours: Monday-Friday, 7 a.m.-9 p.m. Eastern Time, E-mail: support@grants.gov.

Applicants have until midnight (12 a.m.), Washington, DC time of the closing date to ensure that their entire application has been uploaded to the Grants.gov site. There are no exceptions to the above deadline. Applications uploaded to the site after midnight of the application deadline date will be automatically rejected by the grants.gov

system, and will be technically ineligible.

Please refer to the Grants.gov Web site, for definitions of various "application statuses" and the difference between a submission receipt and a submission validation.

Applicants will receive a validation e-mail from grants.gov upon the successful submission of an application. Again, validation of an electronic submission via Grants.gov can take up to two business days. Therefore, we strongly recommend that you not wait until the application deadline to begin the submission process through Grants.gov. ECA will not notify you upon receipt of electronic applications.

It is the responsibility of all applicants submitting proposals via the Grants.gov Web portal to ensure that proposals have been received by Grants.gov in their entirety, and ECA bears no responsibility for data errors resulting from transmission or conversion processes.

Optional—IV.3f.3 You may also state here any limitations on the number of applications that an applicant may submit and make it clear whether the limitation is on the submitting organization, individual program director or both.

IV.3g. Intergovernmental Review of Applications: Executive Order 12372 does not apply to this program.

V. Application Review Information

V.1. Review Process: The Bureau will review all proposals for technical eligibility. Proposals will be deemed ineligible if they do not fully adhere to the guidelines stated herein and in the Solicitation Package. All eligible proposals will be reviewed by the program office, as well as the Public Diplomacy section overseas, where appropriate. Eligible proposals will be subject to compliance with Federal and Bureau regulations and guidelines and forwarded to Bureau grant panels for advisory review. Proposals may also be reviewed by the Office of the Legal Adviser or by other Department elements. Final funding decisions are at the discretion of the Department of State's Assistant Secretary for Educational and Cultural Affairs. Final technical authority for cooperative agreements resides with the Bureau's Grants Officer.

Review Criteria

Technically eligible applications will be competitively reviewed according to the criteria stated below. These criteria are not rank ordered and all carry equal weight in the proposal evaluation:

1. *Quality of the program idea:* Proposals should exhibit originality, substance, precision, and relevance to the Bureau's mission.

2. *Program planning/Ability to achieve program objectives:* Detailed agenda and relevant work plan should demonstrate substantive undertakings and logistical capacity. Agenda and plan should adhere to the program overview and guidelines described above. Objectives should be reasonable, feasible, and flexible. Proposals should clearly demonstrate how the institution will meet the program's objectives and plan.

3. *Multiplier effect/impact:* Proposed programs should strengthen long-term mutual understanding, including maximum sharing of information and establishment of long-term institutional and individual linkages.

4. *Support of Diversity:* Proposals should demonstrate substantive support of the Bureau's policy on diversity. Achievable and relevant features should be cited in both program administration (selection of participants, program venue and program evaluation) and program content (orientation and wrap-up sessions, program meetings, resource materials and follow-up activities).

5. *Institutional Capacity/Institution's Record/Ability:* Proposed personnel and institutional resources should be adequate and appropriate to achieve the program or project's goals. Proposals should demonstrate an institutional record of successful exchange programs, including responsible fiscal management and full compliance with all reporting requirements for past Bureau awards (grants or cooperative agreements) as determined by Bureau Grants Staff. The Bureau will consider the past performance of prior recipients and the demonstrated potential of new applicants.

6. *Follow-on Activities:* Proposals should provide a plan for continued follow-on activity (without Bureau support) ensuring that Bureau supported programs are not isolated events.

7. *Project Evaluation:* Proposals should include a plan to evaluate the activity's success, both as the activities unfold and at the end of the program. A draft survey questionnaire or other technique plus description of a methodology to use to link outcomes to original project objectives is recommended.

8. *Cost-effectiveness:* The overhead and administrative components of the proposal, including salaries and honoraria, should be kept as low as possible. All other items should be necessary and appropriate. Proposals

should maximize cost-sharing through other private sector support as well as institutional direct funding contributions.

VI. Award Administration Information

VI.1a. Award Notices: Final awards cannot be made until funds have been appropriated by Congress, allocated and committed through internal Bureau procedures. Successful applicants will receive an Federal Assistance Award (FAA) from the Bureau's Grants Office. The FAA and the original proposal with subsequent modifications (if applicable) shall be the only binding authorizing document between the recipient and the U.S. Government. The FAA will be signed by an authorized Grants Officer, and mailed to the recipient's responsible officer identified in the application.

Unsuccessful applicants will receive notification of the results of the application review from the ECA program office coordinating this competition.

VI.1b. The following additional requirements apply to this project:

For assistance awards involving Iran: A critical component of current U.S. government Iran policy is the support for indigenous Iranian voices. The State Department has made the awarding of grants for this purpose a key component of its Iran policy. As a condition of licensing these activities, the Office of Foreign Assets Control (OFAC) has requested the Department of State to follow certain procedures to effectuate the goals of Sections 481(b), 531(a), 571, 582, and 635(b) of the Foreign Assistance Act of 1961 (as amended); 18 U.S.C. 2339A and 2339B; Executive Order 13224; and Homeland Security Presidential Directive 6. These licensing conditions mandate that the Department conduct a vetting of potential Iran grantees and sub-grantees for counterterrorism purposes. To conduct this vetting the Department will collect information from grantees and sub-grantees regarding the identity and background of their key employees and Boards of Directors.

Note: To assure that planning for the inclusion of Iran complies with requirements, please contact ECA/A/S/A Program Officer Bahareh Moradi, 202-453-8885, e-mail: MoradiBX@state.gov for additional information.

For assistance awards involving the Palestinian Authority, West Bank, and Gaza: All awards made under this competition must be executed according to all relevant U.S. laws and policies regarding assistance to the Palestinian Authority, and to the West Bank and Gaza. Organizations must consult with

relevant Public Affairs Offices before entering into any formal arrangements or agreements with Palestinian organizations or institutions.

Note: To assure that planning for the inclusion of the Palestinian Authority complies with requirements, please contact ECA/A/S/A Program Officer Amy Forest, 202-453-8866, e-mail: ForestAL@state.gov, for additional information.

VI.2 Administrative and National Policy Requirements: Terms and Conditions for the Administration of ECA agreements include the following: Office of Management and Budget Circular A-122, "Cost Principles for Nonprofit Organizations."

Office of Management and Budget Circular A-21, "Cost Principles for Educational Institutions."

OMB Circular A-87, "Cost Principles for State, Local and Indian Governments."

OMB Circular No. A-110 (Revised), Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and other Nonprofit Organizations.

OMB Circular No. A-102, Uniform Administrative Requirements for Grants-in-Aid to State and Local Governments.

OMB Circular No. A-133, Audits of States, Local Government, and Non-profit Organizations.

Please reference the following Web sites for additional information: <http://www.whitehouse.gov/omb/grants>. <http://fa.statebuy.state.gov>.

VI.3. Reporting Requirements: You must provide ECA with a hard copy original plus two copies of the following reports:

(1) A final program and financial report no more than 90 days after the expiration of the award;

(2) A concise, one-page final program report summarizing program outcomes no more than 90 days after the expiration of the award. This one-page report will be transmitted to OMB, and be made available to the public via OMB's USAspending.gov Web site—as part of ECA's Federal Funding Accountability and Transparency Act (FFATA) reporting requirements.

(3) A SF-PPR, "Performance Progress Report" Cover Sheet with all program reports.

(4) Semi-annual financial reports which should show the actual amounts generated and that these funds are applied to support advising services. All such income must be enumerated on Financial Status Report "Long Form 269." Program reports should also show how using such income reinforces the goals and objectives of this grant.

Award recipients will be required to provide reports analyzing their evaluation findings to the Bureau in their regular program reports. (Please refer to IV. Application and Submission Instructions (IV.3.d.3) above for Program Monitoring and Evaluation information.

All data collected, including survey responses and contact information, must be maintained for a minimum of three years and provided to the Bureau upon request.

All reports must be sent to the ECA Grants Officer and ECA Program Officer listed in the final assistance award document.

VII. Agency Contacts

For questions about this announcement, contact: Dorothy Mora, Educational Information and Resources Branch, ECA/A/S/A, Room 349, ECA/A/S/A-10-03, U.S. Department of State, SA-44, 301 4th Street, SW., Washington, DC 20547, phone: 202-453-8868, fax: 202-453-8890, e-mail: MoraDD@state.gov.

All correspondence with the Bureau concerning this RFGP should reference the above title and number ECA/A/S/A-10-03. Please read the complete announcement before sending inquiries or submitting proposals. Once the RFGP deadline has passed, Bureau staff may not discuss this competition with applicants until the proposal review process has been completed.

VIII. Other Information

Notice: The terms and conditions published in this RFGP are binding and may not be modified by any Bureau representative. Explanatory information provided by the Bureau that contradicts published language will not be binding. Issuance of the RFGP does not constitute an award commitment on the part of the Government. The Bureau reserves the right to reduce, revise, or increase proposal budgets in accordance with the needs of the program and the availability of funds. Awards made will be subject to periodic reporting and evaluation requirements per section VI.3 above.

Dated: February 10, 2009.

C. Miller Crouch,

Acting Assistant Secretary for Educational and Cultural Affairs, Department of State.
[FR Doc. E9-3533 Filed 2-18-09; 8:45 am]

BILLING CODE 4710-05-P

DEPARTMENT OF STATE

[Public Notice 6493]

Advisory Committee on Historical Diplomatic Documentation; Notice of Meeting

SUMMARY: The Advisory Committee on Historical Diplomatic Documentation will meet in the Department of State, 2201 "C" Street, NW., Washington, DC, March 2-3, 2009, in Conference Room 1207. Prior notification and a valid government-issued photo ID (such as driver's license, passport, U. S. government or military ID) are required for entrance into the building. Members of the public planning to attend must notify Nathaniel Smith, Office of the Historian (202-663-3268) no later than February 25, 2009, to provide date of birth, valid government-issued photo identification number and type (such as driver's license number/state, passport number/country, or U.S. government ID number/agency or military ID number/branch), and relevant telephone numbers. If you cannot provide one of the enumerated forms of ID, please consult with Nathaniel Smith for acceptable alternative forms of picture identification.

The Committee will meet in open session from 1:30 p.m. through 2:30 p.m. on Monday, March 2, 2009, in the Department of State, 2201 "C" Street, NW., Washington, DC, in Conference Room 1207, to discuss declassification and transfer of Department of State records to the National Archives and Records Administration and the status of the *Foreign Relations* series. The remainder of the Committee's sessions from 2:45 p.m. until 5 p.m. on Monday, March 2, 2009, and 9 a.m. until 12 p.m. on Tuesday, March 3, 2009, in Conference Room 1207 will be closed in accordance with Section 10(d) of the Federal Advisory Committee Act (Pub. L. 92-463). The agenda calls for discussions of agency declassification decisions concerning the *Foreign Relations* series and other declassification issues. These are matters not subject to public disclosure under 5 U.S.C. 552b(c)(1) and the public interest requires that such activities be withheld from disclosure.

Questions concerning the meeting should be directed to Marc J. Susser, Executive Secretary, Advisory Committee on Historical Diplomatic Documentation, Department of State, Office of the Historian, Washington, DC 20520, telephone (202) 663-1123 (e-mail history@state.gov).

Dated: February 3, 2009.

Marc Susser,

Executive Secretary, Department of State.
[FR Doc. E9-3524 Filed 2-18-09; 8:45 am]

BILLING CODE 4710-11-P

DEPARTMENT OF STATE

[Public Notice 6513]

Industry Advisory Panel: Notice of Open Meeting

The Industry Advisory Panel of Overseas Buildings Operations will meet on Tuesday, March 3, 2009 from 9:30 a.m. until 3:30 p.m. Eastern Standard Time. The meeting will be held in room 1107 of the U.S. Department of State, located at 2201 C Street NW. (entrance on 23rd Street) Washington, DC. For logistical and security reasons, it is imperative that everyone enter and exit using only the 23rd Street entrance. The majority of the meeting is devoted to an exchange of ideas between the Department's Bureau of Overseas Buildings Operations' senior management and the panel members, on design, operations, and building maintenance. Members of the public are asked to kindly refrain from joining the discussion until Director Shinnick opens the discussion to them.

Entry to the building is controlled; to obtain pre-clearance for entry, members of the public planning to attend should provide, by February 20, 2009, their name, professional affiliation, date of birth, citizenship, and a valid government-issued ID number (*i.e.*, U.S. government ID, U.S. military ID, passport, or drivers license with state) by e-mailing: iapr@state.gov. Because of space restrictions, we request that companies interested in attending send only one representative.

If you have any questions, please contact Andrea Walk at walkam@state.gov or on (703) 516-1544.

February 6, 2009.

Richard J. Shinnick,

Director, ad interim, Overseas Building Operations, Department of State.

[FR Doc. E9-3529 Filed 2-18-09; 8:45 am]

BILLING CODE 4710-24-P

DEPARTMENT OF STATE

[Public Notice 6514]

Announcement of A Meeting of the International Telecommunication Advisory Committee

SUMMARY: This notice announces a meeting of the International Telecommunication Advisory

Committee (ITAC) to prepare for the ITU World Telecommunication Policy Forum.

The ITAC will meet to begin preparation of advice for the U.S. government on the ITU World Telecommunication Policy Forum, which will be held from April 21–23, 2009 at the Lisbon Congress Center in Lisbon, Portugal. Preparations for the APECTEL meeting, April 13–18, 2009 in Singapore will also be discussed as well as recent developments in the ITU Telecommunication Standardization, Radiocommunication, and Telecommunication Development Sectors.

The ITAC will meet on March 17, 2009, at 1120 20th Street, NW., 10th floor, Washington, DC 20036. This meeting is open to the public as seating capacity allows. The public will have an opportunity to provide comments at this meeting. People desiring further information on this meeting may contact the Secretariat at jillsonad@state.gov or (202) 647–5872.

February 10, 2009.

Cecily C. Holiday,

International Communications & Information Policy, Department of State.

[FR Doc. E9–3530 Filed 2–18–09; 8:45 am]

BILLING CODE 4710–07–P

DEPARTMENT OF STATE

[Public Notice 6527]

Termination of Statutory Debarment Pursuant to Section 38(g)(4) of the Arms Export Control Act for Electrodyne Systems Corporation, Now AdComm, Inc.

ACTION: Notice.

SUMMARY: Notice is hereby given that the Department of State has terminated the statutory debarment of Electrodyne Systems Corporation (now known as AdComm, Inc.) pursuant to section 38(g)(4) of the Arms Export Control Act (AECA) (22 U.S.C. 2778).

EFFECTIVE DATE: February 9, 2009.

FOR FURTHER INFORMATION CONTACT: David C. Trimble, Director, Office of Defense Trade Controls Compliance, Directorate of Defense Trade Controls, Bureau of Political-Military Affairs, Department of State (202) 663–2807.

SUPPLEMENTARY INFORMATION: Section 38(g)(4) of the AECA and section 127.11 of the International Traffic in Arms Regulations (ITAR) prohibit the issuance of export licenses or other approvals to a person if that person, or any party to the export, has been convicted of violating the AECA and

certain other U.S. criminal statutes enumerated at section 38(g)(1) of the AECA and section 120.27 of the ITAR. A person convicted of violating the AECA is also subject to statutory debarment under section 127.7 of the ITAR.

In October 1996, Electrodyne Systems Corporation pled guilty to violating the AECA (U.S. District Court, District of New Jersey, 2:96–cr–00127–AJL–1). Based on this conviction, Electrodyne Systems Corporation was statutorily debarred pursuant to section 38(g)(4) of the AECA and section 127.7 of the ITAR and, thus, prohibited from participating directly or indirectly in exports of defense articles and defense services. Notice of debarment was published in the **Federal Register** (62 FR 14492, March 26, 1997).

Section 38(g)(4) of the AECA permits termination of debarment after consultation with the other appropriate U.S. agencies and after a thorough review of the circumstances surrounding the conviction and a finding that appropriate steps have been taken to mitigate any law enforcement concerns. The Department of State has determined that Electrodyne Systems Corporation (now AdComm, Inc.) has taken appropriate steps to address the causes of the violations and to mitigate any law enforcement concerns. Therefore, in accordance with section 38(g)(4) of the AECA, the debarment of Electrodyne Systems Corporation (now AdComm, Inc.) is rescinded, effective February 9, 2009.

Dated: February 9, 2009.

Frank J. Ruggiero,

Acting Assistant Secretary of State for Political-Military Affairs, Department of State.

[FR Doc. E9–3414 Filed 2–18–09; 8:45 am]

BILLING CODE 4710–25–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Notice of Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart B (formerly Subpart Q) During the Week Ending February 7, 2009

The following Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits were filed under Subpart B (formerly Subpart Q) of the Department of Transportation's Procedural Regulations (See 14 CFR 301.201 *et seq.*). The due date for Answers, Conforming Applications, or Motions to

Modify Scope are set forth below for each application. Following the Answer period DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Docket Number: DOT–OST–2009–0033.

Date Filed: February 2, 2009.

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: February 23, 2009.

Description: Application of Aviation Starlink Inc. d/b/a Starlink Aviation requesting an exemption and a foreign air carrier permit to engage in scheduled foreign air transportation between Canada and the United States.

Docket Number: DOT–OST–2006–25616.

Date Filed: February 6, 2009.

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: February 27, 2009.

Description: Application of Elysair SAS d/b/a Elysair (“Elysair”) amending its foreign air carrier permit to enable it to engage in: (i) Foreign scheduled and charter air transportation of persons, property and mail from any point or points behind any Member State of the European Union via any point or points in any Member State and via intermediate points to any point or points in the United States and beyond; (ii) foreign scheduled and charter air transportation of persons, property and mail between any point or points in the United States and any point or points in any member of the European Common Aviation Area; (iii) foreign scheduled and charter cargo air transportation between any point or points in the United States and any other point or points; (iv) other charter pursuant to the prior approval requirements; and (v) transportation authorized by any additional route rights made available to European Community carriers in the future. Elysair also requests: (1) Exemption authority to the extent necessary to enable it to hold out and provide the service described above pending issuance of a foreign air carrier permit; (2) a statement of authorization to the extent necessary to display the BA* designator code of British Airways Plc on flights operated by Elysair; (3) authority to the extent necessary to hold out and provide the service described above under the “OpenSkies” trade name and “EC” designator code; and such additional or other relief as the

Department may deem necessary or appropriate.

Renee V. Wright,

*Program Manager, Docket Operations,
Federal Register Liaison.*

[FR Doc. E9-3507 Filed 2-18-09; 8:45 am]

BILLING CODE 4910-9X-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Aviation Rulemaking Advisory Committee Meeting on Transport Airplane and Engine Issues

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of public meeting.

SUMMARY: This notice announces a public meeting of the FAA's Aviation Rulemaking Advisory Committee (ARAC) to discuss transport airplane and engine (TAE) issues.

DATES: The meeting is scheduled for Wednesday, March 11, 2009, starting at 9 a.m. Eastern Daylight Time. Arrange for oral presentations by March 4, 2009.

ADDRESSES: The Boeing Company, 1200 Wilson Boulevard, Room 234, Arlington, Virginia 22209.

FOR FURTHER INFORMATION CONTACT: Ralen Gao, Office of Rulemaking, ARM-209, FAA, 800 Independence Avenue, SW., Washington, DC 20591, Telephone (202) 267-3168, FAX (202) 267-5075, or e-mail at ralen.gao@faa.gov.

SUPPLEMENTARY INFORMATION: Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. app. III), notice is given of an ARAC meeting to be held March 11, 2009.

The agenda for the meeting is as follows:

- Opening Remarks, Review Agenda and Minutes.
- FAA Report.
- Airplane-level Safety Analysis WG Report.
- Task 4 Status.
- EXCOM Report.
- Transport Canada Report.
- Propeller Harmonization Working Group.
- Vote on Final Report.
- Ice Protection HWG Report.
- Airworthiness Assurance HWG Report.
- Avionics HWG Report.
- Any Other Business.
- Action Item Review.

Attendance is open to the public, but will be limited to the availability of meeting room space. Please confirm your attendance with the person listed

in the **FOR FURTHER INFORMATION CONTACT** section no later than March 4, 2009. Please provide the following information: Full legal name, country of citizenship, and name of your industry association, or applicable affiliation. If you are attending as a public citizen, please indicate so.

For persons participating by telephone, please contact Ralen Gao by email or phone for the teleconference call-in number and passcode. Anyone calling from outside the Arlington, VA, metropolitan area will be responsible for paying long-distance charges.

The public must make arrangements by March 4, 2009, to present oral statements at the meeting. Written statements may be presented to the ARAC at any time by providing 25 copies to the person listed in the **FOR FURTHER INFORMATION CONTACT** section or by providing copies at the meeting. Copies of the documents to be presented to ARAC may be made available by contacting the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

If you need assistance or require a reasonable accommodation for the meeting or meeting documents, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Sign and oral interpretation, as well as a listening device, can be made available if requested 10 calendar days before the meeting.

Issued in Washington, DC on February 13, 2009.

Pamela Hamilton-Powell,

Director, Office of Rulemaking.

[FR Doc. E9-3520 Filed 2-18-09; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Second Plenary Meeting, NextGen Mid-Term Implementation Task Force

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of NextGen Mid-Term Implementation Task Force meeting.

SUMMARY: The FAA is issuing this notice to advise the public of a meeting of the NextGen Mid-Term Implementation Task Force.

DATES: The meeting will be held March 4, 2009 starting at 9 a.m. to 12 p.m.

ADDRESSES: Discovery Ballroom, Holiday Inn Capitol, 550 C Street, SW., Corner of 6th & C Streets, SW., Washington, DC 20024 (Metro: L'Enfant Plaza Station, Use 7th & Maryland Exit).

FOR FURTHER INFORMATION CONTACT: RTCA Secretariat, 1828 L Street, NW.,

Suite 850, Washington, DC, 20036; telephone (202) 833-9339; fax (202) 833-9434; Web site <http://www.rtca.org>.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a) (2) of the Federal Advisory Committee Act (Pub. L. 92-463, 5 U.S.C., Appendix 2), notice is hereby given for a NextGen Mid-Term Implementation Task Force meeting. The agenda will include:

- Opening Plenary (Welcome and Introductions)
- Welcome and Introductions
- Work Group 1 Status Report and Planned Activities
- Work Group 2 Status Report and Planned Activities
- Review of NextGen TF Report to ATMAC on March 5
- Discussion and Next Steps
- Closing Plenary (Other Business, Document Production, Date and Place of Next Meeting, Adjourn)

Attendance is open to the interested public but limited to space availability. With the approval of the chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on February 11, 2009.

Francisco Estrada C.,

RTCA Advisory Committee.

[FR Doc. E9-3503 Filed 2-18-09; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Notice of Statute of Limitations on Claims; Notice of Final Federal Agency Actions on Proposed Highway in California

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of Limitation on Claims for Judicial Review of Actions by the California Department of Transportation (Caltrans), pursuant to 23 U.S.C. 327.

SUMMARY: The FHWA, on behalf of Caltrans, is issuing this notice to announce actions taken by Caltrans that are final within the meaning of 23 U.S.C. 139(l) (1). The actions relate to a proposed highway project, Interstate Routes 10 (PM 31.1/31.3)/605 (PM20.2/20.6) Direct Connector project in the County of Los Angeles, State of California. Those actions grant licenses, permits, and approvals for the project.

DATES: By this notice, the FHWA, on behalf of Caltrans, is advising the public of final agency actions subject to 23 U.S.C. 139(l)(1). A claim seeking judicial review of the Federal agency actions on the highway project will be barred unless the claim is filed on or before August 18, 2009. If the Federal law that authorizes judicial review of a claim provides a time period of less than 180 days for filing such claim, then that shorter time period still applies.

FOR FURTHER INFORMATION CONTACT: Gary Iverson, Senior Environmental Planner, Caltrans, District 7, Division of Environmental Planning, 100 South Main Street, Suite 100, Los Angeles, CA 90012-3712, (213) 897-3818 gary_iverson@dot.ca.gov.

SUPPLEMENTARY INFORMATION: Effective July 1, 2007, the Federal Highway Administration (FHWA) assigned, and the California Department of Transportation (Caltrans) assumed, environmental responsibilities for this project pursuant to 23 U.S.C. 327. Notice is hereby given that the Caltrans, have taken final agency actions subject to 23 U.S.C. 139(l)(1) by issuing licenses, permits, and approvals for the following highway project in the State of California: Caltrans proposes to construct a fly-over direct connector from the southbound Interstate 605 to the eastbound Interstate 10 separating the at-grade connectors into individual connectors. Completing the project would improve the safety and operation of the affected connectors within interchange. The project would occur between postmiles 31.1/31.3 along I-10 and postmiles 20.2/20.6 along I-605 near the City of Baldwin Park. The actions by the Federal agencies, and the laws under which such actions were taken, are described in the Finding of No Significant Impact (FONSI) for the project, approved on January 30, 2009. The FONSI and other project records are available by contacting Caltrans at the addresses provided above. The Caltrans FONSI can be viewed and downloaded from the project Web site at <http://www.dot.ca.gov/dist07/resources/envdocs/>.

This notice applies to all Federal agency decisions as of the issuance date of this notice and all laws under which such actions were taken, including but not limited to:

- General: National Environmental Policy Act (NEPA) [42 U.S.C. 4321-4351]; Federal Aid Highway Act; [23 U.S.C. 109].
- Air: Clean Air Act 42 U.S.C. 7401-7671(q).
- Migratory Bird Treaty Act [16 U.S.C. 703-712].

- Historic and Cultural Resources: Section 106 of the National Historic Preservation Act of 1966, as amended [16 U.S.C. 470(aa)-11].
- Social and Economic: Civil Rights Act of 1964 [42 U.S.C. 2000(d)-2000(d)(1)]; The Uniform Relocation Assistance Act and Real Property Acquisition Policies Act of 1970, as amended.
- Hazardous Materials: Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), 42 U.S.C. 9601-9675; Superfund Amendments and Reauthorization Act of 1986 (SARA);
- 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. 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: February 12, 2009.

Shawn E. Oliver,
South Team Leader, State Programs, Federal Highway Administration.

[FR Doc. E9-3528 Filed 2-18-09; 8:45 am]

BILLING CODE 4910-RY-P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD-2009 0013]

Requested Administrative Waiver of the Coastwise Trade Laws

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Invitation for public comments on a requested administrative waiver of the Coastwise Trade Laws for the vessel DELA.

SUMMARY: As authorized by 46 U.S.C. 12121, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below. The complete application is given in DOT docket MARAD-2009 0013 at <http://www.regulations.gov>. Interested parties may comment on the

effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR Part 388 (68 FR 23084; April 30, 2003), that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR Part 388.

DATES: Submit comments on or before March 23, 2009.

ADDRESSES: Comments should refer to docket number MARAD-2009 0013. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC 20590. You may also send comments electronically via the Internet at <http://www.regulations.gov>. All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at <http://www.regulations.gov>.

FOR FURTHER INFORMATION CONTACT:

Joann Spittle, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue, SE., Room W21-203, Washington, DC 20590. Telephone 202-366-5979.

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel DELA is:

Intended Use: "For use by sailing academy for instructional and pleasure sailing with USCG master board."

Geographic Region: "California."

Privacy Act

Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register**

published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78).

Dated: February 10, 2009.

By order of the Maritime Administrator.

Leonard Sutter,

Secretary, Maritime Administration.

[FR Doc. E9–3472 Filed 2–18–09; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2009 0011]

Requested Administrative Waiver of the Coastwise Trade Laws

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Invitation for public comments on a requested administrative waiver of the Coastwise Trade Laws for the vessel LADY VICTORIA.

SUMMARY: As authorized by 46 U.S.C. 12121, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below. The complete application is given in DOT docket MARAD–2009 0011 at <http://www.regulations.gov>. Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR Part 388 (68 FR 23084; April 30, 2003), that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR Part 388.

DATES: Submit comments on or before March 23, 2009.

ADDRESSES: Comments should refer to docket number MARAD–2009 0011. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140,

1200 New Jersey Avenue, SE., Washington, DC 20590. You may also send comments electronically via the Internet at <http://www.regulations.gov>. All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at <http://www.regulations.gov>.

FOR FURTHER INFORMATION CONTACT:

Joann Spittle, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue, SE., Room W21–203, Washington, DC 20590. Telephone 202–366–5979.

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel LADY VICTORIA is:

Intended Use: “Overnight luxury pleasure time charters for weeklong or greater charter periods.”

Geographic Region: “Florida, Maine, New Hampshire, Massachusetts, Rhode Island, Connecticut.”

Privacy Act

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

Dated: February 10, 2009.

By order of the Maritime Administrator.

Leonard Sutter,

Secretary, Maritime Administration.

[FR Doc. E9–3480 Filed 2–18–09; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2009 0012]

Requested Administrative Waiver of the Coastwise Trade Laws

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Invitation for public comments on a requested administrative waiver of the Coastwise Trade Laws for the vessel REVENGER.

SUMMARY: As authorized by 46 U.S.C. 12121, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below. The complete application is given in DOT docket MARAD–2009 0012 at <http://www.regulations.gov>. Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR Part 388 (68 FR 23084; April 30, 2003), that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR Part 388.

DATES: Submit comments on or before March 23, 2009.

ADDRESSES: Comments should refer to docket number MARAD–2009 0012. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590. You may also send comments electronically via the Internet at <http://www.regulations.gov>. All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at <http://www.regulations.gov>.

FOR FURTHER INFORMATION CONTACT:

Joann Spittle, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue, SE., Room W21–203, Washington, DC 20590. Telephone 202–366–5979.

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel REVENGER is:

Intended Use: "small 12 passenger tour/sightseeing boat."

Geographic Region: "State of Hawaii."

Privacy Act

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

Dated: February 10, 2009.

By order of the Maritime Administrator.

Leonard Sutter,

Secretary, Maritime Administration.

[FR Doc. E9-3477 Filed 2-18-09; 8:45 am]

BILLING CODE 4910-81-P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[U.S. DOT Docket No. NHTSA-2009-0037]

Reports, Forms, and Recordkeeping Requirements: Agency Information Collection Activity Under OMB Review

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Request for public comment on proposed collection of information.

SUMMARY: Before a Federal agency can collect certain information from the public, it must receive approval from the Office of Management and Budget (OMB). Under procedures established by the Paperwork Reduction Act of 1995, before seeking OMB approval, Federal agencies must solicit public comment on proposed collections of information, including extensions and reinstatements of previously approved collections. This document describes one collection of information for which NHTSA intends to seek OMB approval.

DATES: Comments must be received on or before April 20, 2009.

ADDRESSES: Refer to the docket notice number cited at the beginning of this notice and send your comments by any of the following methods:

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

Fax: 202-493-2251.

Mail: U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Ave., SE., Washington, DC 20590.

Hand Delivery: U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Ave., SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Charlene Doyle, Contracting Officer's Technical Representative, Office of Regulatory Analysis and Evaluation, National Highway Traffic Safety Administration, 1200 New Jersey Ave., SE., NVS-431, Washington, DC 20590. Ms. Doyle's phone number is 202-366-1276 and her e-mail address is charlene.doyle@dot.gov.

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995, before an agency submits a proposed collection of information to OMB for approval, it must publish a document in the **Federal Register** providing a 60-day comment period and otherwise consult with members of the public and affected agencies concerning each proposed collection of information. The OMB has promulgated regulations describing what must be included in such a document. Under OMB's regulations (at 5 CFR 1320.8(d)), an agency must ask for public comment on the following: (i) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (ii) The accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (iii) How to enhance the quality, utility, and clarity of the information to be collected; and (iv) How 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 submissions of responses. In compliance with these requirements, NHTSA asks public comment on the following proposed collection of information:

Title: An In-Depth Examination of Pedestrian-Involved Hit-and-Run Crashes

Type of Request: New information collection requirement.

OMB Clearance Number: None.

Form Number: This collection of information uses no standard forms.

Abstract: The National Highway Traffic Safety Administration (NHTSA) was established to reduce the mounting number of deaths, injuries and

economic losses resulting from motor vehicle crashes on the Nation's highways. As part of this statutory mandate, NHTSA is authorized to conduct research as a foundation for the development of motor vehicle standards and traffic safety programs. Between 1994 and 2006, nearly 66,000 pedestrian deaths were identified within the United States, 12,000 of those by hit-and-run crashes. Furthermore, the number of pedestrians injured was as high as 61,000 for the year 2006. The annual number of pedestrian deaths has decreased in the aforementioned period, but the number of hit-and-run deaths has remained roughly steady. Thus, the proportion of hit-and-run-related deaths every year has increased. Hit-and-run crashes can be very difficult to identify in existing data sources, and they are also likely to be underreported whenever there are no serious injuries. Even a modest reduction in such crashes would result in improved safety for pedestrians, as well as a reduction in the costs to society and the victims of these crashes. Little previous information or research characterizes hit-and-run crashes, particularly research that provides a set of recommendations and tools to reduce the magnitude of the problem. Most of the background literature centers on describing magnitude, temporal occurrence, and some gender and age trends of people involved in hit-and-run crashes. However, information about the physical environment, driver motivations, and countermeasures has not been extensively discussed in the literature.

Solnick and Hemenway (1995) conducted one of the most comprehensive studies on hit and run crashes. The authors noted that most hit-and-run crashes occurred during the weekend nights. Similarly, they determined that the likelihood of a senior driver leaving the scene is about half of that of a young driver. Likewise, this study found that male drivers tend to be more likely to run than their female counterparts—there were eight male hit-and-run drivers for every five female hit-and-run drivers. Although hit-and-run crashes are a significant component of crashes and crash-related pedestrian injuries and fatalities, the available research on these crashes is limited.

NHTSA is committed to developing effective programs that can reduce the incidence of pedestrian hit-and-run crashes. The best way to do this is to conduct an in-depth analysis of pedestrian-involved hit-and-run crashes to identify the characteristics, magnitude, and impacts on traffic

safety. This study identifies the top 15 locations with high pedestrian-related hit-and-run fatalities. Then with a subset of these locations, an in-depth analysis will be conducted which will include a telephone survey of 900 drivers involved in a pedestrian collision where there are no current pending legal proceedings. Principal subgroups for analysis will be drivers who remained at the scene of the crash and those who fled, but were later identified. Participation by respondents would be voluntary. The sample would be drawn from court records in ten jurisdictions; the ten jurisdictions to be selected based upon an analysis of national crash data. NHTSA's information needs require a sampling approach that will identify drivers in hit-and-run crashes in the United States to allow a preliminary description of the differences between drivers who run and those who do not.

The questionnaire focuses on the circumstances leading up to the crash, the condition of the driver before and after the crash, the extent of any pedestrian injuries that resulted from the crash, and the response to the crash of the driver, the driver's passengers or bystanders. Standard demographics are asked at the beginning of the interview. In conducting the proposed survey, the interviewers would use computer assisted telephone interviewing to reduce interview length and minimize recording errors. The proposed survey would be anonymous and confidential.

Description of the Likely Respondents (Including Estimated Number, and Proposed Frequency of Response to the Collection of Information): Under this proposed effort, the Contractor would conduct 900 telephone interviews averaging approximately 30 minutes each. We expect to need to contact 9000 drivers to obtain this number of responses. The respondent sample would be selected from among drivers identified from police and court records as having been convicted of an offense resulting from a pedestrian-involved crash in jurisdictions having high numbers of such crashes. Using publicly available data sources drivers would be matched with telephone numbers. Each member of the sample would complete one interview.

Estimate of the Total Annual Reporting and Recordkeeping Burden Resulting From the Collection of Information: NHTSA estimates a 10% response rate, due to the sensitivity of the survey subject matter. In order to achieve a sample size of 900, a total of 9,000 individuals must be contacted and screened. The 8,100 individuals who are contacted, but who refuse or are

otherwise ineligible for the survey, would require an average of 3 minutes to complete the screener questionnaire for a total of 405 hours. Each respondent in the final survey sample of 900 drivers would require an average of 30 minutes to complete the telephone interview or a total of 450 hours. Thus, the number of estimated reporting burden hours a year on the general public would be 855 for the proposed survey (405 for the incomplete surveys, and 450 for the full survey administration). The respondents would not incur any reporting cost from the information collection. The respondents also would not incur any recordkeeping burden or recordkeeping cost from the information collection.

Authority: 44 U.S.C. 3506(c)(2)(A).

James F. Simons,

Director, Office of Regulatory Analysis and Evaluation.

[FR Doc. E9-3470 Filed 2-18-09; 8:45 am]

BILLING CODE 4910-59-P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA-2009-0005; Notice 1]

Michelin North America, Inc., Receipt of Petition for Decision of Inconsequential Noncompliance

Michelin North America, Inc. (Michelin), has determined that certain passenger car tires manufactured between September 18, 2008 and October 10, 2008 did not fully comply with paragraphs S5.5(e) and S5.5(f) of Federal Motor Vehicle Safety Standards (FMVSS) No. 139 *New Pneumatic Radial Tires for Light Vehicles*. Michelin has filed an appropriate report pursuant to 49 CFR Part 573, *Defect and Noncompliance Responsibility and Reports*.

Pursuant to 49 U.S.C. 30118(d) and 30120(h) (see implementing rule at 49 CFR part 556), Michelin has petitioned for an exemption from the notification and remedy requirements of 49 U.S.C. Chapter 301 on the basis that this noncompliance is inconsequential to motor vehicle safety.

This notice of receipt of Michelin's petition is published under 49 U.S.C. 30118 and 30120 and does not represent any agency decision or other exercise of judgment concerning the merits of the petition.

Affected are approximately 2,240 size P195/60R15 (87T) Michelin Harmony brand passenger car tires manufactured between September 18, 2008 and October 10, 2008 at Michelin's plant

located in Pictou, Canada.

Approximately 1,590 of these tires have been delivered to Michelin's customers. The remaining tires (approximately 650) are being held in Michelin's possession until they can be correctly relabeled.

NHTSA notes that the statutory provisions (49 U.S.C. 30118(d) and 30120(h)) that permit manufacturers to file petitions for a determination of inconsequentiality allow NHTSA to exempt manufacturers only from the duties found in sections 30118 and 30120, respectively, to notify owners, purchasers, and dealers of a defect or noncompliance and to remedy the defect or noncompliance. Therefore, these provisions only apply to the tires that have already passed from the manufacturer to an owner, purchaser, or dealer.

Paragraphs S5.5(e) and S5.5(f) of FMVSS No. 139 require in pertinent part:

S5.5 Tire markings. Except as specified in paragraphs (a) through (i) of S5.5, each tire must be marked on each sidewall with the information specified in S5.5(a) through (d) and on one sidewall with the information specified in S5.5(e) through (i) according to the phase-in schedule specified in S7 of this standard. The markings must be placed between the maximum section width and the bead on at least one sidewall, unless the maximum section width of the tire is located in an area that is not more than one-fourth of the distance from the bead to the shoulder of the tire. If the maximum section width falls within that area, those markings must appear between the bead and a point one-half the distance from the bead to the shoulder of the tire, on at least one sidewall. The markings must be in letters and numerals not less than 0.078 inches high and raised above or sunk below the tire surface not less than 0.015 inches * * *

(e) The generic name of each cord material used in the plies (both sidewall and tread area) of the tire;

(f) The actual number of plies in the sidewall, and the actual number of plies in the tread area, if different * * *

Michelin explains that the noncompliance is that, due to a mold labeling error, the sidewall marking on the reference side of the tires incorrectly describes the number of plies in the tread area of the tires. Specifically, the tires in question were inadvertently manufactured with "Tread Plies: 2 Polyester + 2 polyamide + 2 steel; Sidewall plies: 2 polyester" marked on the intended outboard sidewall. The labeling should have been "Tread Plies: 2 Polyester + 1 polyamide + 2 steel; Sidewall plies: 2 polyester." Michelin also explains that the marking on the other sidewall of the tires correctly describes the plies in the tread area of the tires.

Michelin states that it discovered the mold labeling error that caused the non-compliance during a routine quality audit.

Michelin argues that this noncompliance is inconsequential to motor vehicle safety because the noncompliant sidewall marking does not affect the strength of the tires and all other labeling requirements have been met.

Michelin points out that NHTSA has previously granted petitions for sidewall marking noncompliances that Michelin believes are similar to the instant non-compliance.

Michelin also stated that it has corrected the problem that caused these errors so that they will not be repeated in future production.

In summation, Michelin states that it believes that because the noncompliances are inconsequential to motor vehicle safety that no corrective action is warranted.

Interested persons are invited to submit written data, views, and arguments on this petition. Comments must refer to the docket and notice number cited at the beginning of this notice and be submitted by any of the following methods:

a. By mail addressed to: U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC 20590.

b. By hand delivery to U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC 20590. The Docket Section is open on weekdays from 10 a.m. to 5 p.m. except Federal holidays.

c. Electronically: by logging onto the Federal Docket Management System (FDMS) Web site at <http://www.regulations.gov>. Follow the online instructions for submitting comments. Comments may also be faxed to 1-202-493-2251.

Comments must be written in the English language, and be no greater than 15 pages in length, although there is no limit to the length of necessary attachments to the comments. If comments are submitted in hard copy form, please ensure that two copies are provided. If you wish to receive confirmation that your comments were received, please enclose a stamped, self-addressed postcard with the comments. Note that all comments received will be posted without change to <http://www.regulations.gov>, including any personal information provided.

Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477-78).

You may view documents submitted to a docket at the address and times given above. You may also view the documents on the Internet at <http://www.regulations.gov> by following the online instructions for accessing the dockets available at that Web site.

The petition, supporting materials, and all comments received before the close of business on the closing date indicated below will be filed and will be considered. All comments and supporting materials received after the closing date will also be filed and will be considered to the extent possible. When the petition is granted or denied, notice of the decision will be published in the **Federal Register** pursuant to the authority indicated below.

Comment closing date: March 23, 2009.

Authority: 49 U.S.C. 30118, 30120; delegations of authority at CFR 1.50 and 501.8.

Issued on: February 12, 2009.

Claude H. Harris,
Director, Office of Vehicle Safety Compliance.
[FR Doc. E9-3486 Filed 2-18-09; 8:45 am]

BILLING CODE 4910-59-P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

[Docket ID PHMSA-2009-0026]

Pipeline Safety: Workshop on Internal Corrosion in Hazardous Liquid Pipelines

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), DOT.

ACTION: Notice of Workshop.

SUMMARY: The Pipeline, Inspection, Protection, Enforcement, and Safety Act of 2006 (PIPES), Public Law 109-468, Section 22, requires PHMSA to review the internal corrosion control regulations to determine if the regulations are currently adequate to ensure that the pipeline facilities subject to the regulations will not present a hazard to public safety or the environment. As a follow-up to this review and our report to Congress,

PHMSA is sponsoring a Workshop on Internal Corrosion in Hazardous Liquid Pipelines to allow stakeholders of the pipeline safety community to learn about and discuss PHMSA regulations, industry standards and practices, current evaluation practices and methods to assure pipeline safety.

DATES: The workshop will be held on March 26, 2009. Name badge pick-up and on-site registration will be available starting at 7:30 a.m. with the agenda taking place from 8 a.m. until approximately 5 p.m. Refer to the meeting Web site for updated agenda and times: <https://primis.phmsa.dot.gov/meetings/Mtg57.mtg>.

Please note that the workshop will not be webcast. However, presentations will be available on the meeting Web site within 30 days following the workshop.

ADDRESSES: The workshop will be held at the OMNI Hotel at CNN Center, 100 CNN Center, Atlanta, GA 30303. The meeting room will be posted at the hotel on the day of the workshop.

FOR FURTHER INFORMATION CONTACT: Joshua Johnson at (816) 329-3825, or by e-mail at joshua.johnson@dot.gov.

SUPPLEMENTARY INFORMATION:

Registration: Members of the public may attend this free workshop. To help assure that adequate space is provided, all attendees are encouraged to register for the workshop at <http://primis.phmsa.dot.gov/meetings/Mtg57.mtg>.

Comments: Members of the public may also submit written comments, either before or after the workshop. Comments should reference Docket ID PHMSA-09-0026. Comments may be submitted in the following ways:

- *E-Gov Web Site:* <http://www.regulations.gov>. This site allows the public to enter comments on any **Federal Register** notice issued by any agency. Follow the instructions for submitting comments.
- *Fax:* 1-202-493-2251.
- *Mail:* Docket Management System, U.S. Department of Transportation, 1200 New Jersey Avenue, SE., Room W12-140, Washington, DC 20590.
- *Hand Delivery:* Docket Management System, Room W12-140, on the ground floor of the West Building, 1200 New Jersey Avenue, SE., Washington, DC between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Instructions: Identify the Docket ID at the beginning of your comments. If you submit your comments by mail, submit two copies. If you wish to receive confirmation that PHMSA has received your comments, include a self-addressed stamped postcard. Internet

Internet

users may submit comments at <http://www.regulations.gov>. **Note:** Comments will be posted without changes or edits to <http://www.regulations.gov> including any personal information provided. Please see the Privacy Act heading in the Regulatory Analyses and Notices section of the **SUPPLEMENTARY INFORMATION** for additional information.

Privacy Act Statement: Anyone may search the electronic form of all comments received for any of our dockets. You may review DOT's complete Privacy Act Statement in the **Federal Register** published April 11, 2000 (65 FR 19477).

Information on Services for Individuals with Disabilities: For information on facilities or services for individuals with disabilities, or to request special assistance at the meeting, please contact Joshua Johnson by March 6, 2009.

Issue Description: Pipeline safety regulations at 49 CFR 195.579(a) require operators to determine if the hazardous liquids they are transporting could corrode the pipeline and, if so, take adequate steps to mitigate that corrosion potential. PHMSA emphasizes that, while the workshop will involve issues related to Part 195, some of the technical discussions on research and methods are of relevance to natural gas pipeline operators. For this reason, PHMSA also encourages natural gas pipeline operators to attend the meeting.

Although the base commodity may not be corrosive, all hazardous liquids regulated under Part 195 could be corrosive during some phase of the production and/or manufacturing process when contaminants could be introduced. Often, the only barrier separating untreated product or corrosive materials from a pipeline transporting processed/refined products is the processing plant or refinery. These plants occasionally undergo upset conditions where all or a portion of the untreated product may bypass the treatment process and enter the downstream piping. During those upset conditions, corrosive materials might be introduced into the pipeline and could create a corrosive condition.

Pipeline operators who previously concluded that an internal corrosion control program was not needed may need to critically re-analyze operating conditions and internal corrosion risk factors and periodically monitor, or otherwise reconfirm, that the pipeline is free of corrosive materials. Operators should perform a periodic system analysis and document the results, confirming that they properly analyzed the pipeline for possible internal corrosion precursors. In addition,

operators should also conduct periodic monitoring for changes that might increase this risk and identify possible sites of selective internal corrosion risks.

The workshop is intended to allow representatives of the pipeline industry, regulatory agencies, the public, and other stakeholders to discuss the implications of these results and the potential need for further research and/or regulatory changes.

Preliminary Workshop Agenda

The workshop will include:

- (1) Overview of current PHMSA regulations and data on internal corrosion.
- (2) Overview of industry internal corrosion control documents.
- (3) Review of current industry practices for evaluating, monitoring, and management of internal corrosion.

Refer to the meeting Web site for a more detailed agenda: <http://primis.phmsa.dot.gov/meetings/Mtg57.mtg>

PHMSA publishes requirements for the mitigation of internal corrosion at 49 CFR Part 195 for hazardous liquids pipelines. PHMSA and other presenters plan to discuss the process of analyzing a pipeline system to determine whether internal corrosion is a threat and how to manage the threat if it exists. PHMSA will consider the discussion at the workshop and comments submitted to the docket in determining whether changes to regulatory requirements are needed and what those changes should be.

Issued in Washington, DC, on February 11, 2009.

Jeffrey D. Wiese,

Associate Administrator for Pipeline Safety.

[FR Doc. E9-3487 Filed 2-18-09; 8:45 am]

BILLING CODE 4910-60-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 35211]

Port Terminal Railroad—Operation Exemption—Rail Line of the Charleston Naval Complex Redevelopment Authority

Port Terminal Railroad (PTR), a Class III rail carrier, has filed a verified notice of exemption under 49 CFR 1150.41 to operate rail lines located on the former Charleston Naval Base Complex in Charleston County, SC. The main line of railroad (Navy Base Main Line) measures approximately 1.97 route

miles.¹ There is also a run-around track that is approximately 1,000 feet in length and is bordered by the former navy base. PTR is a subsidiary of the South Carolina Division of Public Railways (SCPR).²

PTR certifies that its projected annual revenues as a result of this transaction will not result in the creation of a Class II or Class I rail carrier.

The earliest this transaction may be consummated is the March 5, 2009 effective date of the exemption (30 days after PTR filed the verified notice of exemption).³ In publishing this notice, the Board takes no position on the title dispute concerning some of the subject lines before the state court in South Carolina.

If the notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction. Petitions for stay must be filed no later than February 26, 2009 (at least 7 days before the exemption becomes effective).

Pursuant to the Consolidated Appropriations Act, 2008, Public Law 110-161 section 193, 121 Stat. 1844 (2007), nothing in this decision authorizes the following activities at any solid waste rail transfer facility: Collecting, storing, or transferring solid waste outside of its original shipping container; or separating or processing solid waste (including baling, crushing, compacting, and shredding). The term "solid waste" is defined in section 1004 of the Solid Waste Disposal Act, 42 U.S.C. 6903.

¹ The Navy Base Main Line is the line of track that: (1) Begins at the point of switch with the North Charleston Terminal Company Railroad (NCTC); (2) proceeds south and enters the North Gate 1 of the former navy base near Virginia Avenue; (3) continues to proceed south and crosses over the Noisette Creek; (4) then crosses Avenue D at grade and proceeds on the east side of Avenue D; (5) turns southeast near the intersection of Avenue D and Turnbull Avenue; (6) crosses Turnbull Avenue at grade; (7) then turns south along the west side of North Hobson Avenue and runs parallel to North Hobson Avenue; (8) then turns southeast and crosses North Hobson Avenue at grade; and (9) proceeds on the east side of North Hobson Avenue to the point where it enters the South Carolina State Ports Authority Veterans Terminal near Viaduct Road. The Navy Base Main Line connects in the north at Gate 1 to the NCTC, which is a joint operation between CSX Transportation, Inc. (CSXT), and Norfolk Southern Railway Company (NS), and to the west with CSXT. There is currently no connection between PTR and CSXT or NS to the south.

² SCPR, a Division of the South Carolina Department of Commerce, is organized and exists under the laws of the State of South Carolina. S.C. Code § 13-1-1310.

³ See 49 CFR 1150.42(b).

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 35211, must be filed with the Surface Transportation Board, 395 E Street, SW., Washington, DC 20423-0001. In addition, one copy of each pleading must be served on Derek F. Dean, Simons & Dean, 147 Wappoo Creek Drive, Suite 604, Charleston, SC 29412, and Jeffrey M. McWhorter, Port Terminal Railroad and South Carolina Division of Public Railways, 540 E. Bay Street, Charleston, SC 29403.

Board decisions and notices are available on our Web site at <http://www.stb.dot.gov>.

Decided: February 10, 2009.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Jeffrey Herzig,
Clearance Clerk.

[FR Doc. E9-3235 Filed 2-18-09; 8:45 am]

BILLING CODE 4915-01-P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

February 12, 2009.

The Department of the Treasury will submit the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104-13 on or after the date of publication of this notice. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 11000, and 1750 Pennsylvania Avenue, NW, Washington, DC 20220.

Dates: Written comments should be received on or before March 23, 2009 to be assured of consideration.

Internal Revenue Service (IRS)

OMB Number: 1545-2130.

Type of Review: Extension.

Title: Form 8927—Determination Under Section 860(e)(4) by a Qualified Investment Entity.

Form: 8927.

Description: The American Jobs Creation Act of 2004 (AJCA) expanded the meaning of the term “determination” to include self-determinations made by a regulated investment company (RIC) or a real estate investment trust (REIT). IRC section 860(g) provides that no deficiency dividend deduction shall be

allowed under IRC section 860(a) unless a claim is filed within 120 days after the date of the determination. Form 8927 is used by the RIC or REIT to establish the date of determination under IRC section 860(e) (4).

Respondents: Individuals or Households.

Estimated Total Burden Hours: 140 hours.

Clearance Officer: Glenn P. Kirkland (202) 622-3428, Internal Revenue Service, Room 6516, 1111 Constitution Avenue, NW., Washington, DC 20224.

OMB Reviewer: Shagufta Ahmed (202) 395-7873, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503.

Celina Elphage,

Treasury PRA Clearance Officer.

[FR Doc. E9-3471 Filed 2-18-09; 8:45 am]

BILLING CODE 4830-01-P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

February 12, 2009.

The Department of Treasury will submit the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104-13 on or after the date of publication of this notice. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 11000, 1750 Pennsylvania Avenue, NW., Washington, DC 20220.

Dates: Written comments should be received on or before March 23, 2009 to be assured of consideration.

Financial Crimes Enforcement Network (FinCEN)

OMB Number: 1506-0019.

Type of Review: Revision.

Title: Suspicious Activity Report by Securities and Futures Industries and 31 CFR 103.17(d) and 103.19(d).

Form: FinCEN 101.

Description: Treasury is requiring certain securities broker-dealers, futures commission merchants and introducing brokers in commodities to file suspicious activity reports.

Respondents: Businesses or other for-profits.

Estimated Total Reporting Burden: 36,006 hours.

Clearance Officer: Russell Stephenson (202) 354-6012, Department of the Treasury, Financial Crimes Enforcement Network, P.O. Box 39, Vienna, VA 22183.

OMB Reviewer: Shagufta Ahmed (202) 395-7873, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503.

Celina Elphage,

Treasury PRA Clearance Officer.

[FR Doc. E9-3473 Filed 2-18-09; 8:45 am]

BILLING CODE 4810-02-P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Additional Designation of an Entity Pursuant to Executive Order 13224

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice.

SUMMARY: The Treasury Department's Office of Foreign Assets Control (“OFAC”) is publishing the name of one newly-designated entity whose property and interests in property are blocked pursuant to Executive Order 13224 of September 23, 2001, “Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten To Commit, or Support Terrorism.”

DATES: The designation by the Director of OFAC of the one entity identified in this notice, pursuant to Executive Order 13224, is effective on February 11, 2009.

FOR FURTHER INFORMATION CONTACT: Assistant Director, Compliance Outreach & Implementation, Office of Foreign Assets Control, Department of the Treasury, Washington, DC 20220, tel.: 202/622-2490.

SUPPLEMENTARY INFORMATION:

Electronic and Facsimile Availability

This document and additional information concerning OFAC are available from OFAC's Web site (<http://www.treas.gov/ofac>) or via facsimile through a 24-hour fax-on-demand service, tel.: 202/622-0077.

Background

On September 23, 2001, the President issued Executive Order 13224 (the “Order”) pursuant to the International Emergency Economic Powers Act, 50 U.S.C. 1701-1706, and the United Nations Participation Act of 1945, 22 U.S.C. 287c. In the Order, the President declared a national emergency to address grave acts of terrorism and threats of terrorism committed by foreign terrorists, including the September 11, 2001, terrorist attacks in

New York, Pennsylvania, and at the Pentagon. The Order imposes economic sanctions on persons who have committed, pose a significant risk of committing, or support acts of terrorism. The President identified in the Annex to the Order, as amended by Executive Order 13268 of July 2, 2002, 13 individuals and 16 entities as subject to the economic sanctions. The Order was further amended by Executive Order 13284 of January 23, 2003, to reflect the creation of the Department of Homeland Security.

Section 1 of the Order blocks, with certain exceptions, all property and interests in property that are in or hereafter come within the United States or the possession or control of United States persons, of: (1) Foreign persons listed in the Annex to the Order; (2) foreign persons determined by the Secretary of State, in consultation with the Secretary of the Treasury, the Secretary of the Department of Homeland Security and the Attorney General, to have committed, or to pose a significant risk of committing, acts of terrorism that threaten the security of U.S. nationals or the national security, foreign policy, or economy of the United States; (3) persons determined by the Director of OFAC, in consultation with the Departments of State, Homeland Security and Justice, to be owned or controlled by, or to act for or on behalf of those persons listed in the Annex to the Order or those persons determined to be subject to subsection 1(b), 1(c), or 1(d)(i) of the Order; and (4) except as provided in section 5 of the Order and after such consultation, if any, with foreign authorities as the Secretary of State, in consultation with the Secretary of the Treasury, the Secretary of the Department of Homeland Security and the Attorney General, deems appropriate in the exercise of his discretion, persons determined by the Director of OFAC, in consultation with the Departments of State, Homeland Security and Justice, to assist in, sponsor, or provide financial, material, or technological support for, or financial or other services to or in support of, such acts of terrorism or those persons listed in the Annex to the Order or determined to be subject to the Order or to be otherwise associated with those persons listed in the Annex to the Order or those persons determined to be subject to subsection 1(b), 1(c), or 1(d)(i) of the Order.

On February 11, 2009, the Director of OFAC, in consultation with the Departments of State, Homeland Security, Justice and other relevant agencies, designated, pursuant to one or more of the criteria set forth in

subsections 1(b), 1(c) or 1(d) of the Order, one entity whose property and interests in property are blocked pursuant to Executive Order 13224.

The designee is as follows:

1. Tamil Foundation, 517 E. Oldtown Road, Cumberland, MD 21502; Tax ID No. 52-1699409 (United States) [SDGT]

Dated: February 11, 2009.

Adam J. Szubin,

Director, Office of Foreign Assets Control.

[FR Doc. E9-3496 Filed 2-18-09; 8:45 am]

BILLING CODE 4811-45-P

DEPARTMENT OF THE TREASURY

Bureau of the Public Debt

Proposed Collection: Comment Request

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 Bureau of the Public Debt within the Department of the Treasury is soliciting comments concerning the Creditor's Consent To Disposition Of United States Securities And Related Checks Without Administration Of Deceased Owner's Estate.

DATES: Written comments should be received on or before April 12, 2009, to be assured of consideration.

ADDRESSES: Direct all written comments to Bureau of the Public Debt, Judi Owens, 200 Third Street, A4-A, Parkersburg, WV 26106-1328, or judi.owens@bpd.treas.gov.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Judi Owens, Bureau of the Public Debt, 200 Third Street, A4-A, Parkersburg, WV 26106-1328, (304) 480-8150.

SUPPLEMENTARY INFORMATION:

Title: Creditor's Consent to Disposition of United States Securities and Related Checks without Administration of Deceased Owner's Estate.

OMB Number: 1535-0055.

Form Number: PD F 1050.

Abstract: The information is requested to obtain a creditor's consent

to dispose of savings bonds/notes in settlement of a deceased owner's estate without administration.

Current Actions: None.

Type of Review: Extension.

Affected Public: Individuals or businesses.

Estimated Number of Respondents: 1,500.

Estimated Time Per Respondent: 6 minutes.

Estimated Total Annual Burden Hours: 150.

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.

Dated: February 12, 2009.

Judi Owens,

Manager, Information Management Branch.

[FR Doc. E9-3526 Filed 2-18-09; 8:45 am]

BILLING CODE 4810-39-P

DEPARTMENT OF THE TREASURY

Bureau of the Public Debt

Proposed Collection: Comment Request

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 Bureau of the Public Debt within the Department of the Treasury is soliciting comments concerning the Application for Refund

of Purchase Price of United States Savings Bonds for Organizations.

DATES: Written comments should be received on or before April 12, 2009, to be assured of consideration.

ADDRESSES: Direct all written comments to Bureau of the Public Debt, Judi Owens, 200 Third Street, A4-A, Parkersburg, WV 26106-1328, or judi.owens@bpd.treas.gov.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Judi Owens, Bureau of the Public Debt, 200 Third Street, A4-A, Parkersburg, WV 26106-1328, (304) 480-8150.

SUPPLEMENTARY INFORMATION:

Title: Application for Refund of Purchase Price of United States Savings Bonds for Organizations.

Form Number: PD F 5410.

Abstract: The information is requested to support refund of purchase price of savings bonds to and organization.

Current Actions: None.

Type of Review: Extension.

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

Estimated Number of Respondents: 3,000.

Estimated Time Per Respondent: 06 minutes.

Estimated Total Annual Burden Hours: 300.

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.

Dated: February 12, 2009.

Judi Owens,

Manager, Information Management Branch.
[FR Doc. E9-3552 Filed 2-18-09; 8:45 am]

BILLING CODE 4810-39-P

DEPARTMENT OF THE TREASURY

Bureau of the Public Debt

Proposed Collection: Comment Request

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 Bureau of the Public Debt within the Department of the Treasury is soliciting comments concerning the Application For Disposition—United States Savings Bonds/Notes and/or Related Checks Owned by Decedent Whose Estate is Being Settled Without Administration.

DATES: Written comments should be received on or before April 12, 2009 to be assured of consideration.

ADDRESSES: Direct all written comments to Bureau of the Public Debt, Judi Owens, 200 Third Street, A4-A, Parkersburg, WV 26106-1328, or judi.owens@bpd.treas.gov.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Judi Owens, Bureau of the Public Debt, 200 Third Street, A4-A, Parkersburg, WV 26106-1328, (304) 480-8150.

SUPPLEMENTARY INFORMATION:

Title: Application For Disposition—United States Savings Bonds/Notes and/or Related Checks Owned by Decedent Whose Estate Is Being Settled Without Administration.

OMB Number: 1535-0118.

Form Number: PD F 5336.

Abstract: The information is requested to support a request for distribution when a decedent's estate is not being administered.

Current Actions: None.

Type of Review: Extension.

Affected Public: Individuals or households.

Estimated Number of Respondents: 25,350.

Estimated Time Per Respondent: 30 minutes.

Estimated Total Annual Burden Hours: 12,675.

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.

Dated: February 12, 2009.

Judi Owens,

Manager, Information Management Branch.

[FR Doc. E9-3553 Filed 2-18-09; 8:45 am]

BILLING CODE 4810-39-P

DEPARTMENT OF THE TREASURY

Bureau of the Public Debt

Proposed Collection: Comment Request

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 Bureau of the Public Debt within the Department of the Treasury is soliciting comments concerning the Request By Fiduciary For Reissue of United States Savings Bonds/Notes.

DATES: Written comments should be received on or before April 12, 2009, to be assured of consideration.

ADDRESSES: Direct all written comments to Bureau of the Public Debt, Judi Owens, 200 Third Street, A4-A, Parkersburg, WV 26106-1328, or judi.owens@bpd.treas.gov.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Judi Owens, Bureau of the Public Debt, 200 Third

Street, A4–A, Parkersburg, WV 26106–1328, (304) 480–8150.

SUPPLEMENTARY INFORMATION:

Title: Request By Fiduciary for Reissue of United States Savings Bonds/Notes.

OMB Number: 1535–0012.

Form Number: PD F 1455

Abstract: The information is requested to support a request for reissue by the fiduciary of a decedent's estate.

Current Actions: None

Type of Review: Extension

Affected Public: Individuals or businesses.

Estimated Number of Respondents: 17,700

Estimated Time Per Respondent: 30 minutes.

Estimated Total Annual Burden

Hours: 8,850

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.

Dated: February 12, 2009.

Judi Owens,

Manager, Information Management Branch.

[FR Doc. E9–3555 Filed 2–18–09; 8:45 am]

BILLING CODE 4810–39–P

DEPARTMENT OF THE TREASURY

Bureau of the Public Debt

Proposed Collection: Comment Request

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 Bureau of the Public Debt within the Department of the Treasury is soliciting comments concerning the Supporting Statement of Ownership for Overdue United States Bearer Securities.

DATES: Written comments should be received on or before April 12, 2009, to be assured of consideration.

ADDRESSES: Direct all written comments to Bureau of the Public Debt, Judi Owens, 200 Third Street, A4–A, Parkersburg, WV 26106–1328, or judi.owens@bpd.treas.gov.

FOR FURTHER INFORMATION CONTACT:

Requests for additional information or copies of the form and instructions should be directed to Judi Owens, Bureau of the Public Debt, 200 Third Street, A4–A, Parkersburg, WV 26106–1328, (304) 480–8150.

SUPPLEMENTARY INFORMATION:

Title: Supporting Statement of Ownership for Overdue United States Bearer Securities.

OMB Number: 1535–0102.

Form Number: PD F 1071.

Abstract: The information is requested to establish ownership and support a request for payment.

Current Actions: None.

Type of Review: Extension.

Affected Public: Individuals or businesses.

Estimated Number of Respondents: 1,000.

Estimated Time Per Respondent: 15 minutes.

Estimated Total Annual Burden

Hours: 250.

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.

Dated: February 12, 2009.

Judi Owens,

Manager, Information Management Branch.

[FR Doc. E9–3557 Filed 2–18–09; 8:45 am]

BILLING CODE 4810–39–P

DEPARTMENT OF THE TREASURY

Bureau of the Public Debt

Proposed Collection: Comment Request

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 Bureau of the Public Debt within the Department of the Treasury is soliciting comments concerning the Application For Disposition Of Retirement Plan and/or Individual Retirement Bonds Without Administration Of Deceased Owner's Estate.

DATES: Written comments should be received on or before April 12, 2009, to be assured of consideration.

ADDRESSES: Direct all written comments to Bureau of the Public Debt, Judi Owens, 200 Third Street, A4–A, Parkersburg, WV 26106–1328, or judi.owens@bpd.treas.gov.

FOR FURTHER INFORMATION CONTACT:

Requests for additional information or copies of the form and instructions should be directed to Judi Owens, Bureau of the Public Debt, 200 Third Street, A4–A, Parkersburg, WV 26106–1328, (304) 480–8150.

SUPPLEMENTARY INFORMATION:

Title: Application for Disposition of Retirement Plan and/or Individual Retirement Bonds Without Administration of Deceased Owner's Estate.

OMB Number: 1535–0032.

Form Number: PD F 3565.

Abstract: The information is used to support a request for disposition by the heirs of deceased owners or Retirement Plan and/or Individual Retirement bonds.

Current Actions: None.

Type of Review: Extension.

Affected Public: Individuals or households.

Estimated Number of Respondents: 50.

Estimated Time Per Respondent: 20 minutes.

Estimated Total Annual Burden Hours: 17.

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.

Dated: February 12, 2009.

Judi Owens,

Manager, Information Management Branch.

[FR Doc. E9-3559 Filed 2-18-09; 8:45 am]

BILLING CODE 4810-39-P

DEPARTMENT OF THE TREASURY

Bureau of the Public Debt

Proposed Collection: Comment Request

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 Bureau of the Public Debt within the Department of the Treasury is soliciting comments concerning the Order For Series EE and Series I U.S. Savings Bonds, and Order For Series EE and Series I U.S. Savings Bonds To Be Registered In Name Of Fiduciary.

DATES: Written comments should be received on or before April 12, 2009, to be assured of consideration.

ADDRESSES: Direct all written comments to Bureau of the Public Debt, Judi

Owens, 200 Third Street, A4-A, Parkersburg, WV 26106-1328, or judi.owens@bpd.treas.gov.

FOR FURTHER INFORMATION CONTACT:

Requests for additional information or copies of the form and instructions should be directed to Judi Owens, Bureau of the Public Debt, 200 Third Street, A4-A, Parkersburg, WV 26106-1328, (304) 480-8150.

SUPPLEMENTARY INFORMATION:

Title: Order For Series EE U.S. Savings Bonds, Order For Series I U.S. Savings Bonds, Order For Series EE U.S. Savings Bonds To Be Registered In Name of Fiduciary, and Order for Series I U.S. Savings Bonds To Be Registered In Name of Fiduciary.

OMB Number: 1535-0084.

Form Number: PD F 5263 and 5263-1 and PD F 5374 and 5374-1.

Abstract: The information is requested from the purchaser to issue Series EE/I Savings Bonds.

Current Actions: None.

Type of Review: Extension.

Affected Public: Individuals or households.

Estimated Number of Respondents: 10,000,000.

Estimated Time Per Respondent: 5 minutes.

Estimated Total Annual Burden Hours: 830,000.

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.

Date: February 12, 2009.

Judi Owens,

Manager, Information Management Branch.

[FR Doc. E9-3560 Filed 2-18-09; 8:45 am]

BILLING CODE 4810-39-P

DEPARTMENT OF THE TREASURY

Bureau of the Public Debt

Proposed Collection: Comment Request

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 Bureau of the Public Debt within the Department of the Treasury is soliciting comments concerning the Application For Issue Of United States Mortgage Guaranty Insurance Company Tax And Loss Bonds.

DATES: Written comments should be received on or before April 12, 2009, to be assured of consideration.

ADDRESSES: Direct all written comments to Bureau of the Public Debt, Judi Owens, 200 Third Street, A4-A, Parkersburg, WV 26106-1328, or judi.owens@bpd.treas.gov.

FOR FURTHER INFORMATION CONTACT:

Requests for additional information or copies of the form and instructions should be directed to Judi Owens, Bureau of the Public Debt, 200 Third Street, A4-A, Parkersburg, WV 26106-1328, (304) 480-8150.

SUPPLEMENTARY INFORMATION:

Title: Application For Issue Of United States Mortgage Guaranty Insurance Company Tax and Loss Bonds.

Form Number: PD F 3871.

Abstract: The information is used to establish and maintain Tax and Loss Bond Accounts.

Current Actions: None.

Type of Review: Extension.

Affected Public: Business or other for-profit.

Estimated Number of Respondents: 33.

Estimated Time Per Respondent: 15 minutes.

Estimated Total Annual Burden Hours: 8.

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.

Date: February 12, 2009.

Judi Owens,

Manager, Information Management Branch.
[FR Doc. E9-3563 Filed 2-18-09; 8:45 am]

BILLING CODE 4810-39-P

DEPARTMENT OF THE TREASURY

Bureau of the Public Debt

Proposed Collection: Comment Request

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 Bureau of the Public Debt within the Department of the Treasury is soliciting comments concerning the electronic process for selling/issuing, servicing, and making payments on or redeeming U.S. Treasury securities.

DATES: Written comments should be received on or before April 12, 2009, to be assured of consideration.

ADDRESSES: Direct all written comments to Bureau of the Public Debt, Judi Owens, 200 Third Street, A4-A, Parkersburg, WV 26106-1328, or e-mail to judi.owens@bpd.treas.gov.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Judi Owens, Bureau of the Public Debt, 200 Third Street, A4-A, Parkersburg, WV 26106-1328, (304) 480-8150.

SUPPLEMENTARY INFORMATION:

Title: TreasuryDirect.

OMB Number: 1535-0138.

Abstract: The information is requested to establish a new account and process transactions.

Current Actions: None.

Type of Review: Extension.

Affected Public: Individuals.

Estimated Number of Respondents: 2.06 million.

Estimated Total Annual Burden

Hours: 97,000.

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.

Date: February 12, 2009.

Judi Owens,

Manager, Information Management Branch.
[FR Doc. E9-3567 Filed 2-18-09; 8:45 am]

BILLING CODE 4810-39-P

DEPARTMENT OF THE TREASURY

United States Mint

Notification of United States Mint 2009 Commemorative Coin Pricing

ACTION: Notification of United States Mint 2009 Commemorative Coin Pricing.

SUMMARY: The United States Mint is announcing the prices of the 2009 Abraham Lincoln Commemorative Silver Dollar and the 2009 Louis Braille Bicentennial Silver Dollar.

Public Laws 109-285 and 109-247 require the United States Mint to mint and issue the Abraham Lincoln Commemorative Silver Dollar and the Louis Braille Bicentennial Silver Dollar, respectively. These coins will be offered in both proof and uncirculated conditions. In addition, the uncirculated Louis Braille Bicentennial Silver Dollar will be offered in an easy-to-open capsule for those who would like to feel the tactile elements offered by the coin design.

The Abraham Lincoln Commemorative Silver Dollar will be offered at an introductory price on February 12, 2009, through March 16, 2009, when it will be offered at regular pricing. The Louis Braille Bicentennial Silver Dollar will be offered at introductory pricing beginning March 26, 2009, through April 27, 2009, when it will be offered at regular pricing. Pricing for all standard options under both programs are listed below.

Description	Introductory price	Regular price
Abraham Lincoln Commemorative Silver Dollar:		
Proof Silver Dollar	\$37.95	\$41.95
Uncirculated Silver Dollar	31.95	33.95
Louis Braille Bicentennial Silver Dollar:		
Proof Silver Dollar	37.95	41.95
Uncirculated Silver Dollar	31.95	33.95
Uncirculated Silver Dollar in Easy-Open Capsule	31.95	33.95

FOR FURTHER INFORMATION CONTACT: B.B. Craig, Associate Director for Sales and Marketing; United States Mint; 801 Ninth Street, NW., Washington, DC 20220; or call 202-354-7500.

Authority: 31 U.S.C. 5111, 5112 & 9701; Public Law 109-285, sec. 6 (Sep. 27, 2006); Public Law 109-247, sec. 6 (July 27, 2006).

Dated: February 13, 2009.

Edmund C. Moy,

Director, United States Mint.

[FR Doc. E9-3562 Filed 2-18-09; 8:45 am]

BILLING CODE 4810-37-P



Federal Register

**Thursday,
February 19, 2009**

Part II

Securities and Exchange Commission

**17 CFR Parts 230, 232, 239, and 274
Interactive Data for Mutual Fund Risk/
Return Summary; Final Rule**

SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 230, 232, 239, and 274

[Release Nos. 33–9006, 34–59391, 39–2462, IC–28617; File Number S7–12–08]

RIN 3235–AK13

Interactive Data for Mutual Fund Risk/Return Summary

AGENCY: Securities and Exchange Commission.

ACTION: Final rule.

SUMMARY: We are adopting rule amendments requiring mutual funds to provide risk/return summary information in a form that is intended to improve its usefulness to investors. Under the rules, risk/return summary information could be downloaded directly into spreadsheets, analyzed in a variety of ways using commercial off-the-shelf software, and used within investment models in other software formats. Mutual funds will provide the risk/return summary section of their prospectuses to the Commission and on their Web sites in interactive data format using the eXtensible Business Reporting Language (“XBRL”). The interactive data will be provided as exhibits to registration statements and as exhibits to prospectuses with risk/return summary information that varies from the registration statement. The rules are intended not only to make risk/return summary information easier for investors to analyze but also to assist in automating regulatory filings and business information processing. Interactive data has the potential to increase the speed, accuracy, and usability of mutual fund disclosure, and eventually reduce costs. We also are adopting rules to permit investment companies to submit portfolio holdings information in our interactive data voluntary program without being required to submit other financial information.

DATES: *Effective Date:* July 15, 2009.

Compliance Date: January 1, 2011.

Section II.H. of this release contains information on the effective date and the compliance date.

FOR FURTHER INFORMATION CONTACT:

Brent J. Fields, Assistant Director, Office of Disclosure and Review, Mark H. Berman, Senior Special Counsel, Office of Special Projects, Tara R. Buckley, Senior Counsel, Office of Chief Counsel, Deborah D. Skeens, Senior Counsel, and Alberto H. Zapata, Senior Counsel, Office of Disclosure Regulation, Division of Investment Management, at (202) 551–6784, Securities and

Exchange Commission, 100 F Street, NE., Washington, DC 20549–5720.

SUPPLEMENTARY INFORMATION: The Securities and Exchange Commission (“Commission”) is adopting amendments to rules 485¹ and 497² under the Securities Act of 1933 (“Securities Act”), rules 11,³ 202,⁴ 401,⁵ and 405⁶ of Regulation S–T,⁷ and Form N–1A⁸ under the Securities Act and the Investment Company Act of 1940 (“Investment Company Act”).⁹

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Text of Rule and Form Amendments

Executive Summary

The principal elements of the rule amendments we are adopting today are as follows:

- Open-end management investment companies (“mutual funds”) ¹⁰ must submit to the Commission a new exhibit with their risk/return summary

¹ 17 CFR 230.485.

² 17 CFR 230.497.

³ 17 CFR 232.11.

⁴ 17 CFR 232.202.

⁵ 17 CFR 232.401.

⁶ The Commission recently added new rule 405 to Regulation S–T [17 CFR 232.405] in a separate release. *See* Securities Act Release No. 9002 (Jan. 30, 2009) [74 FR 6776 (Feb. 10, 2009)] (“Interactive Data Adopting Release”).

⁷ 17 CFR 232.10 *et seq.*

⁸ 17 CFR 239.15A and 274.11A.

⁹ The Commission proposed these rule and form amendments in June 2008. *See* Securities Act Release No. 8929 (June 10, 2008) [73 FR 35442 (June 23, 2008)] (“Proposing Release”).

¹⁰ An open-end management investment company is an investment company, other than a unit investment trust or face-amount certificate company, that offers for sale or has outstanding any redeemable security of which it is the issuer. *See* Sections 4 and 5(a)(1) of the Investment Company Act [15 U.S.C. 80a–4 and 80a–5(a)(1)].

information in interactive data format, beginning with initial registration statements, and post-effective amendments that are annual updates to effective registration statements that become effective after January 1, 2011.¹¹

- An interactive data file submitted with a registration statement must be filed as a post-effective amendment under rule 485(b) under the Securities Act¹² and must be filed after effectiveness of the related filing, but no later than 15 business days after the effective date of the related filing. An interactive data file required to be submitted with a form of prospectus filed pursuant to rule 497(c) or (e) under the Securities Act may be submitted with the filing or subsequent thereto, but no later than 15 business days after the filing made pursuant to rule 497.

- Risk/return summary information in interactive data format must be provided as an exhibit identified in General Instruction C.3.(g).(iv) of Form N–1A.¹³

- The rules do not alter the requirements to provide risk/return summary information with the traditional format filings.¹⁴

- A mutual fund required to provide risk/return summary information in interactive data format to the Commission also is required to post that information in interactive data format on its Web site not later than the end of the calendar day it submitted or was required to submit the interactive data

¹¹ We have adjusted the compliance date to provide mutual funds sufficient time to become familiar with interactive data. *See infra* Section II.H. Interactive data will be required as an exhibit to a registration statement or post-effective amendment thereto that contains risk/return summary information and to any form of prospectus filed pursuant to rule 497(c) or (e) under the Securities Act [17 CFR 230.497(c) or (e)] that contains risk/return summary information that varies from the registration statement. Interactive data will not be required as an exhibit to a post-effective amendment that does not contain risk/return summary information or to a form of prospectus filed pursuant to rule 497(c) or (e) that does not contain risk/return summary information that varies from the registration statement.

¹² A post-effective amendment filed under rule 485(b) under the Securities Act [17 CFR 230.485(b)] may become effective immediately upon filing. A post-effective amendment may only be filed under rule 485(b) if it is filed for one or more specified purposes, including to make non-material changes to the registration statement.

¹³ Form N–1A is the form used by mutual funds to register under the Investment Company Act and to offer securities under the Securities Act.

¹⁴ When we extended the voluntary program to the mutual fund risk/return summary, we stated in the adopting release that the interactive data submission would be supplemental to filings and not replace the required traditional electronic format of the information it contains. We also said that volunteers would be required to continue to file their traditional electronic filings. *See* Part II.A. of Securities Act Release No. 8823 (July 11, 2007) [72 FR 39290, 39292 (July 17, 2007)].

exhibit to the Commission, whichever is earlier.¹⁵

- If a mutual fund does not submit or post interactive data as required, the fund's ability to file post-effective amendments to its registration statement under rule 485(b) under the Securities Act will be automatically suspended until the fund submits and posts the interactive data as required.

- Mutual funds providing risk/return summary information in interactive data format are required to use the most recent list of tags released by XBRL U.S.¹⁶ as required by Regulation S-T and the EDGAR Filer Manual.¹⁷ Mutual funds also are required to tag a limited number of document and entity identifier elements, such as the form type and the fund's name. As with interactive data for the risk/return summary, these document and entity identifier elements must be formatted using the appropriate list of tags as required by Regulation S-T and the EDGAR Filer Manual.

- New rule 406T of Regulation S-T¹⁸ addresses the liability for an interactive data file and provides that an interactive data file is:

- Subject to the anti-fraud provisions of Section 17(a)(1) of the Securities Act, Section 10(b) of and rule 10b-5 under the Securities Exchange Act of 1934 ("Exchange Act"), and Section 206(1) of the Investment Advisers Act of 1940 ("Investment Advisers Act"), except as provided below;

- Deemed not filed or part of a registration statement or prospectus for purposes of Sections 11 or 12 of the Securities Act, is deemed not filed for purposes of Section 18 of the Exchange Act or Section 34(b) of the Investment

Company Act, and otherwise is not subject to liability under these sections:

- Deemed filed for purposes of (and, as a result, benefit from) rule 103 of Regulation S-T;¹⁹ and

- Subject to liability for a failure to comply with rule 405 of Regulation S-T,²⁰ but shall be deemed to have complied with rule 405 and would not be subject to liability under the anti-fraud provisions set forth above or under any other liability provision if the electronic filer:

- Makes a good faith attempt to comply with rule 405; and

- after the electronic filer becomes aware that the interactive data file fails to comply with rule 405, promptly amends the interactive data file to comply with rule 405.

- These liability provisions will apply only until October 31, 2014, and, thereafter, an interactive data file will be subject to the same liability provisions as the related official filing.

- The voluntary program is being modified to allow for participation by mutual funds with respect to risk/return summary information up until January 1, 2011, but continue to permit investment companies to participate with respect to financial statement information thereafter. As a result, the voluntary program will continue after the compliance date of these rule amendments for the financial statements of investment companies that are registered under the Investment Company Act, business development companies,²¹ and other entities that report under the Exchange Act and prepare their financial statements in accordance with Article 6 of Regulation S-X.

- Registered investment companies, business development companies, and other entities that report under the Exchange Act and prepare their financial statements in accordance with

Article 6 of Regulation S-X are permitted to submit exhibits under the voluntary program containing a tagged schedule of portfolio holdings without having to submit other financial information in interactive data format.

We intend to monitor implementation and, if necessary, make appropriate adjustments to the adopted amendments.

I. Introduction and Background

A. Commission Initiatives To Update the Public Disclosure Process

Over the last several decades, developments in technology and electronic data communication have facilitated greater transparency in the form of easier access to, and analysis of, financial reporting and disclosures. Technological developments also have significantly decreased the time and cost of filing disclosure documents with us. Most notably, in 1993 we began to require electronic filing on our Electronic Data Gathering, Analysis, and Retrieval System ("EDGAR").²² Since then, widespread use of the Internet has vastly decreased the time and expense of accessing disclosure filed with us.

We continue to update our filing standards and systems as technologies improve, consistent with our goal to promote efficient and transparent capital markets. Most recently, we unveiled the Interactive Data Electronic Applications database ("IDEA"), which will initially supplement and eventually replace EDGAR, and which is designed to take full advantage of interactive technology in order to provide investors with better and more useful financial disclosures.²³ Also, since 2003 we have required electronic filing of certain ownership reports filed on Forms 3,²⁴ 4,²⁵ and 5²⁶ in a format that provides interactive data, and recently we adopted similar rules governing the filing of Form D.²⁷ In addition, recently we have encouraged, and in some cases required, mutual funds and public reporting companies to provide

¹⁵ The Web site posting requirement applies only to the extent a mutual fund already maintains a Web site.

¹⁶ The appropriate list of tags for document and entity identifier elements will be a list released by XBRL U.S., see *infra* note 46, and will be required to be used by all issuers required to submit interactive data.

¹⁷ Rule 405 of Regulation S-T directly sets forth the basic tagging requirements and indirectly sets forth the rest of the tagging requirements through the requirement to comply with the EDGAR Filer Manual, which is available on the Commission's Web site at: <http://www.sec.gov/info/edgar/edmanuals.htm>. Consistent with rule 405, the EDGAR Filer Manual contains the technical tagging requirements. See Interactive Data Adopting Release, *supra* note 6 (adopting rule 405 of Regulation S-T). Currently, we are in the process of updating the EDGAR Filer Manual to reflect changes in the tagging requirements applicable to financial statements. See Interactive Data Adopting Release, *supra* note 6. We anticipate that similar updates to address revisions in the tagging requirements applicable to fund risk/return summary information and portfolio holdings will be finalized during 2009.

¹⁸ See Interactive Data Adopting Release, *supra* note 6 (adopting rule 406T of Regulation S-T).

¹⁹ The interactive data file is deemed filed for purposes of rule 103 of Regulation S-T [17 CFR 232.103] and, as a result, in general, the mutual fund would not be subject to liability for electronic transmission errors beyond its control if the mutual fund corrects the problem through an amendment as soon as reasonably practicable after the fund becomes aware of the problem. Interactive data files are deemed filed for purposes of rule 103 regardless of whether they are eligible for the modified treatment provided by rule 406T at the time submitted. Rule 406T expressly provides that interactive data files are deemed filed for purposes of rule 103 to remove any negative inference that otherwise might be drawn due to the fact that rule 406T deems interactive data files to be not filed for other specified purposes.

²⁰ See *supra* note 17.

²¹ Business development companies are a category of closed-end investment companies that are not required to register under the Investment Company Act. See Section 2(a)(48) of the Investment Company Act [15 U.S.C. 80a-2(a)(48)].

²² In 1993, we began to require domestic issuers to file most documents electronically. Securities Act Release No. 6977 (Feb. 23, 1993) [58 FR 14628 (Mar. 18, 1993)]. Electronic filing began with a pilot program in 1984. Securities Act Release No. 6539 (June 27, 1984) [49 FR 28044 (July 10, 1984)].

²³ See *SEC Announces Successor to EDGAR Database*, Securities and Exchange Commission Press Release, Aug. 19, 2008, available at: <http://www.sec.gov/news/press/2008/2008-179.htm>.

²⁴ 17 CFR 249.103 and 274.202.

²⁵ 17 CFR 249.104 and 274.203.

²⁶ 17 CFR 249.105.

²⁷ 17 CFR 239.500.

disclosures and communicate with investors using the Internet.²⁸

In addition, we also implemented a voluntary filer program, started in 2005,²⁹ that has allowed us to evaluate certain uses of interactive data. The voluntary program allows companies to submit financial statements on a supplemental basis in interactive format as exhibits to specified filings under the Exchange Act and the Investment Company Act. Over 100 operating companies participated in the voluntary program. These companies span a wide range of industries and company characteristics, and have a total market capitalization of over \$2 trillion. Companies that participated in the program were still required to file their financial statements in American Standard Code for Information Interchange (“ASCII”) or HyperText Markup Language (“HTML”).³⁰ Four mutual fund complexes participated in the voluntary program and have submitted financial statement information in interactive data format.³¹

In 2007, we extended the program to enable mutual funds voluntarily to submit in interactive data format supplemental information contained in the risk/return summary section of their prospectuses.³² The risk/return summary contains information about a fund’s investment objectives and strategies, costs, risks, and past performance.³³ Twenty-five mutual funds from a variety of fund families have submitted risk/return summary information in interactive data format. These funds represent 15 fund complexes, and consist of a range of fund types, including 14 equity funds, two balanced funds, five bond funds, and four money market funds. The funds participating in the voluntary program also include larger and smaller funds.³⁴

Since the establishment of the voluntary program for mutual fund risk/return summary information, the Commission has continued its evaluation of interactive data, including interactive data submitted by mutual funds. The Commission’s evaluation of interactive data has included the hosting of three roundtables on the topic of interactive data reporting,³⁵ as well as the creation, in April 2008 of a viewer that allowed investors to read, analyze, and compare the interactive risk/return summary data submitted by mutual funds.³⁶

Additionally, prior to launching the risk/return viewer, Commission staff reviewed all of the interactive data files submitted to the Commission to help ensure the accuracy of the interactive risk/return summary data displayed on the Commission’s Web site, and the staff communicated with the filers in order to identify and correct any technical issues with the submissions.³⁷ Further, as noted below, Commission staff also surveyed voluntary program participants for specific data regarding the costs of preparing and submitting risk/return summary information in interactive data, including software costs and internal and external labor costs.³⁸ Six of the participating mutual funds responded, providing data in response to this voluntary program questionnaire. These six respondents represent mutual fund complexes whose assets comprise a range of approximately .01% to 12% of all the assets of the mutual funds that will be required to submit interactive data.³⁹

In a companion release, we recently adopted rules requiring companies, other than investment companies that are registered under the Investment Company Act, business development companies, and other entities that report under the Exchange Act and prepare

their financial statements in accordance with Article 6 of Regulation S–X, to submit financial information to the Commission in interactive data format.⁴⁰ In this release, as part of our continuing efforts to assist investors who use Commission disclosures, as well as filers of that disclosure, we are adopting rule amendments to require that mutual fund risk/return summary information be provided in a format that makes the information interactive.

B. Current Filing Technology and Interactive Data

Companies filing electronically are required to file their registration statements and periodic reports in ASCII or HTML format.⁴¹ Also, to a limited degree, our electronic filing system uses other formats for internal processing and document-type identification. For example, our system uses eXtensible Markup Language (“XML”) to process reports of beneficial ownership of equity securities on Forms 3, 4, and 5 under Section 16(a) of the Exchange Act.⁴²

Electronic formats such as HTML, XML, and XBRL are open standards⁴³ that define or “tag” data using standard definitions. The tags establish a consistent structure of identity and context. This consistent structure can be recognized and processed by a variety of different software applications. In the case of HTML, the standardized tags enable Web browsers to present Web sites’ embedded text and information in a predictable format. In the case of XBRL, software applications, such as databases, financial reporting systems, and spreadsheets, recognize and process tagged information.

XBRL was derived from the XML standard. It was developed and continues to be supported by XBRL International, a consortium of approximately 550 organizations representing many elements of the financial reporting community worldwide in more than 20 jurisdictions, national and regional.

²⁸ See, e.g., Investment Company Act Release No. 28584 (Jan. 13, 2009) [74 FR 4546 (Jan. 26, 2009)] (“Summary Prospectus Adopting Release”); Exchange Act Release No. 57172 (Jan. 18, 2008) [73 FR 4450 (Jan. 25, 2008)]; Exchange Act Release No. 56135 (July 26, 2007) [72 FR 42222 (Aug. 1, 2007)]; Exchange Act Release No. 55146 (Jan. 22, 2007) [72 FR 4148 (Jan. 29, 2007)]; Securities Act Release No. 8591 (July 19, 2005) [70 FR 44722 (Aug. 3, 2005)].

²⁹ Securities Act Release No. 8529 (Feb. 3, 2005) [70 FR 6556 (Feb. 8, 2005)] (“Voluntary Program Adopting Release”).

³⁰ HTML is a standardized language commonly used to present text and other information on Web sites.

³¹ These four fund complexes made 23 submissions representing 12 mutual funds.

³² Securities Act Release No. 8823 (July 11, 2007) [72 FR 39290 (July 17, 2007)] (“Risk/Return Voluntary Program Adopting Release”).

³³ Items 2, 3, and 4 of Form N–1A.

³⁴ Based on industry assets as of September 2008, four of the five largest fund complexes have submitted tagged risk/return summary information

as part of the voluntary filing program. Lipper-Directors’ Analytical Data, Reuters Sept. 2008. As of September 2008, the two smallest mutual funds participating in the voluntary program had net assets of approximately \$41 million and \$17 million. *Id.*

³⁵ See materials available at <http://www.sec.gov/spotlight/xbrl/xbrl-meetings.shtml>.

³⁶ As discussed in Section I.B. *infra*, information in interactive data format is intended to be processed by software applications and is not readable by humans without a viewer.

³⁷ See *infra* Section I.E.3. (discussing the Commission’s risk/return summary interactive data viewer).

³⁸ See Section III. below. Of the 22 mutual funds that participated in the voluntary program at the time the Commission proposed these amendments, nine were provided questionnaires on the details of their cost experience, and six responses were collected representing the cost data for ten funds.

³⁹ Based on total mutual fund assets of \$10.6 trillion. Lipper-Directors’ Analytical Data, Reuters Sept. 2008.

⁴⁰ Interactive Data Adopting Release, *supra*, note 6.

⁴¹ Rule 301 of Regulation S–T [17 CFR 232.301] requires electronic filings to comply with the EDGAR Filer Manual, and Section 5.2 of the EDGAR Filer Manual requires that electronic filings be in ASCII or HTML format. Rule 104 of Regulation S–T [17 CFR 232.104] permits filers to submit voluntarily as an adjunct to their official filings in ASCII or HTML unofficial PDF copies of filed documents. Unless otherwise stated, we refer to filings in ASCII or HTML as traditional format filings.

⁴² 15 U.S.C. 78p(a).

⁴³ The term “open standard” is generally applied to technological specifications that are widely available to the public, royalty-free, at minimal or no cost.

XBRL U.S., the international organization's U.S. jurisdiction representative, is a non-profit organization⁴⁴ that includes companies, public accounting firms, software developers, filing agents, data aggregators, stock exchanges, regulators, financial services companies, and industry associations.⁴⁵

Risk/return summary information in interactive format requires a standard list of tags. These tags are similar to definitions in an ordinary dictionary, and they cover a variety of concepts that can be read and understood by software applications. For the risk/return summary, a mutual fund will use the most recent list of tags for risk/return summary information released by XBRL U.S.⁴⁶ This list of tags contains descriptive labels, authoritative references to Commission regulations where applicable, and other elements, all of which provide the contextual information necessary for interactive data⁴⁷ to be recognized and processed by software.⁴⁸

⁴⁴ XBRL U.S. is a 501(c)(6) organization. Internal Revenue Code Section 501(c)(6) applies to "Business leagues, chambers of commerce, real-estate boards, boards of trade, or professional football leagues (whether or not administering a pension fund for football players), not organized for profit and no part of the net earnings of which inures to the benefit of any private shareholder or individual." See 26 U.S.C. 501(c)(6).

⁴⁵ XBRL U.S. supports efforts to promote interactive financial and business data specific to the U.S.

⁴⁶ Unless stated otherwise, when we refer to the "list of tags for risk/return summary information" we mean the interactive data list of tags released and maintained by XBRL U.S., including any modifications. This list was initially developed by the Investment Company Institute ("ICI"), which is a national association of the U.S. investment company industry.

⁴⁷ The rules define the interactive data in machine-readable format required to be submitted as the "interactive data file," which will be required with every interactive data submission. See Interactive Data Adopting Release, *supra* note 6 (adopting new definitions under 17 CFR 232.11).

⁴⁸ For example, contextual information identifies the entity to which it relates, usually by using the filer's Central Index Key ("CIK") number. A hypothetical filer converting its traditional electronic disclosure of total annual fund operating expenses of 0.73% must create interactive data that identifies what the 0.73% represents, total annual fund operating expenses, and that the number is a percentage. The contextual information includes other information as necessary; for example, the date of the prospectus to which it relates and the series and class to which it applies.

A mutual fund may issue multiple "series" of shares, each of which is preferred over all other series in respect of assets specifically allocated to that series. Rule 18f-2 under the Investment Company Act [17 CFR 270.18f-2]. Each series is, in effect, a separate investment portfolio.

A mutual fund may issue more than one class of shares that represent interests in the same portfolio of securities with each class, among other things, having a different arrangement for shareholder services or the distribution of securities, or both. Rule 18f-3 under the Investment Company Act [17 CFR 270.18f-3].

The initial risk/return summary list of tags received acknowledgement from XBRL International in June 2007,⁴⁹ and was used by mutual funds participating in the Commission's voluntary program. More recently, XBRL U.S. has updated the architecture of the list of tags for risk/return summary information and conformed the list of tags to changes we recently adopted to the risk/return summary disclosure requirements.⁵⁰ The list was recently issued for public comment,⁵¹ and it is expected to be finalized and submitted to XBRL International for acknowledgement by the end of January 2009. Related documents, such as the architecture and technical guides, also are due to be released publicly by the end of January 2009.

Data tags are applied to risk/return summary information by using commercially available software that guides a preparer to tag information in the risk/return summary, such as line item costs in a mutual fund's fee table, with the appropriate tags in the standard list. This involves locating an element in the list of tags that represents the particular disclosure that is to be tagged. Occasionally, because mutual funds have some flexibility in preparing the risk/return summary, particularly the narrative portions, it is possible that a mutual fund may wish to use a non-standard disclosure that is not included in the standard list of tags. In this situation, a fund will create a company-specific element, called an extension. Alternatively, a mutual fund may choose to outsource the tagging process.

⁴⁹ The list of tags is available on XBRL International's Web site at: <http://xbrl.org/Taxonomy/rr-summarydocument-20070516-acknowledged.htm>.

There are two levels of XBRL tag recognition: (1) "Acknowledgement" is formal recognition that a list of tags complies with XBRL specifications, including testing by a defined set of validation tools; and (2) "approval" is a formal recognition requiring more detailed quality assurance and testing, including compliance with official XBRL guidelines for the type of tag list under review, creation of a number of instance documents, and an open review period after acknowledgement. For more information regarding the XBRL tag list recognition process, see "Taxonomy Recognition Process" on the XBRL International Web site available at: <http://www.xbrl.org/TaxonomyRecognition/>.

⁵⁰ See *infra* Section II.E.1. (discussing the list of tags for risk/return summary information); Summary Prospectus Adopting Release, *supra* note 28.

⁵¹ XBRL U.S. released the updated list of tags for risk/return summary information for public comment on October 21, 2008. The list is available on the XBRL U.S. Web site at: <http://xbrl.us/ixtaxonomies/Pages/default.aspx>. See XBRL U.S. Announces Public Review of Data Tags for Mutual Fund Risk/Return Summary and Schedule of Investments, available on the XBRL U.S. Web site at: <http://xbrl.us/press/Pages/20081021.aspx>. The comment period closed on November 24, 2008.

Because mutual fund risk/return summary information in interactive data format is intended to be processed by software applications, the unprocessed interactive data is not readable by humans. Thus, viewers are necessary to convert, or "render," the interactive data file to human readable format. Some viewers, for example, may be compared to Web browsers that are used to read HTML files.

The Commission's Web site currently provides links to viewers that allow the public to read mutual fund and other company disclosures submitted using interactive data. One of these viewers allows users to view and compare mutual fund risk/return summary information, including investment objectives and strategies, costs, risks, and past performance, that is submitted in interactive data format.⁵² These viewers are intended to demonstrate the capability of software to present interactive data in human-readable form and to provide open source software to give developers a free resource they can use as is or build upon. As noted above, software also is able to process interactive data so as to automate and, as a result, facilitate access to and analysis of tagged data. In addition, we are aware of other applications under development that may provide additional and advanced functionality.⁵³

II. Discussion

The Commission received 16 comment letters on the proposed rule amendments, including comments from trade associations, fund complexes, a data aggregator, technology service providers, and individual investors and professionals.⁵⁴ The commenters

⁵² A mutual fund information viewer for the voluntary program is available at: <http://a.viewerprototype1.com/viewer>.

⁵³ A list of interactive data products and service providers is available at: <http://xbrl.us/Vendors/Pages/default-expand.aspx>.

⁵⁴ See comment letters of the American Bar Association ("ABA") (Aug. 18, 2008); James J. Angel, Ph.D. C.F.A. ("Angel") (Aug. 4, 2008); Gary J. Coles ("Coles") (July 25, 2008); Committee of Annuity Insurers ("Annuity Insurers") (July 23, 2008); Confluence (Aug. 1, 2008); Data Communiqué, Inc. ("Data Communiqué") (July 31, 2008); Federated Investors, Inc. ("Federated") (Aug. 12, 2008); Robert Gilmore, C.P.A. ("Gilmore") (July 31, 2008); Walter C. Hamscher ("Hamscher") (July 31, 2008); ICI (Aug. 1, 2008); Lipper (July 29, 2008); OppenheimerFunds, Inc. ("Oppenheimer") (Aug. 4, 2008); Lorna A. Schnase ("Schnase") (July 25, 2008); Jay Starkman, C.P.A. ("Starkman") (July 30, 2008); T. Rowe Price Associates, Inc. ("T. Rowe Price") (Aug. 1, 2008); and The Vanguard Group, Inc. ("Vanguard") (Aug. 1, 2008). Comment letters received in response to the Proposing Release are available at: <http://www.sec.gov/comments/s7-12-08/s71208.shtml> or from our Public Reference Room at 100 F Street, NE., Washington, DC 20549.

generally supported both the use of technology to better inform mutual fund investors and the Commission's goal of providing risk/return summary information in interactive data format.⁵⁵ Most commenters, however, stated that requiring mutual funds to provide tagged risk/return summary information is premature.⁵⁶ As discussed below, commenters also raised other concerns regarding the proposal, including concerns regarding the adequacy of the existing technology necessary to create and submit interactive data files,⁵⁷ what information should be required to be tagged,⁵⁸ the proposed compliance date,⁵⁹ and the potential liability of mutual funds under the federal securities laws related to tagged risk/return summary information.⁶⁰

For the reasons discussed below, we continue to believe that the enormous potential of interactive data for enhancing investors' access to mutual fund information justifies implementation of this initiative. Therefore, we are adopting the proposed amendments with some modifications to address commenters' concerns. The rule amendments are intended to make risk/return summary information easier for investors to analyze and to assist in automating regulatory filings and business information processing.

A. Submission of Risk/Return Summary Information Using Interactive Data

We are adopting, as proposed, rule amendments that require mutual funds to submit a complete set of their risk/return summary information, set forth in Items 2, 3, and 4 of Form N-1A,⁶¹ in

⁵⁵ Twelve commenters generally supported tagging risk/return summary information in interactive data format. See letters of ABA, Angel, Annuity Insurers, Confluence, Data Communiqué, Gilmore, Hamscher, ICI, Lipper, Oppenheimer, T. Rowe Price, and Vanguard. Three commenters did not support requiring interactive disclosure of risk/return summary data. See letters of Federated, Schnase, and Starkman. One commenter expressed no explicit opinion on the matter. See letter of Coles.

⁵⁶ See letters of ABA, Confluence, Data Communiqué, Federated, Gilmore, ICI, Oppenheimer, Schnase, T. Rowe Price, and Vanguard.

⁵⁷ See letters of Confluence, Federated, Gilmore, ICI, Oppenheimer, Schnase, Starkman, and T. Rowe Price.

⁵⁸ See letters of ABA, Confluence, Data Communiqué, Federated, and Schnase.

⁵⁹ See letters of Confluence, Data Communiqué, Federated, Gilmore, ICI, Oppenheimer, Schnase, T. Rowe Price, and Vanguard.

⁶⁰ See letters of ABA, Federated, ICI, Oppenheimer, and Schnase.

⁶¹ Recently, the Commission adopted amendments to Form N-1A, see Summary Prospectus Adopting Release, *supra* note 28, under which the risk/return summary information, formerly contained in Items 2 and 3 of Form N-1A, was reconfigured in Items 2, 3, and 4 of Form N-

interactive data format.⁶² In addition, mutual funds are required to provide document and entity identifier tags, such as the form type and the fund's name. As was the case in the voluntary program, the new requirement for interactive data reporting is intended to be disclosure neutral in that we do not intend the rules to result in mutual funds providing more, less, or different disclosure for any given disclosure item, regardless of whether the format is ASCII, HTML, or XBRL.

We are adopting these rule amendments because the submission of interactive risk/return summary information at this time is an important next step in increasing the accessibility of this information to mutual fund investors and others. Requiring mutual funds to submit the risk/return summary section of their prospectuses using interactive data format will enable investors, analysts, and the Commission staff to capture and analyze that information more quickly and at less cost than is possible using the same information provided in a static format. Any investor with a computer and an Internet connection will have the ability to acquire and download interactive data that have generally been available only to intermediaries and third-party analysts. The interactive data rule amendments do not change disclosure requirements under the federal securities laws and regulations, but will add a requirement to include risk/return summary information in an interactive data format as an exhibit. Thus, requiring that filers provide risk/return summary information using interactive data will not otherwise alter at all the disclosure or formatting standards of mutual fund prospectuses. These filings will continue to be available as they are today for those who prefer to view the traditional text-based document.

Interactive data can create new ways for investors, analysts, and others to retrieve and use the information. For example, users of risk/return summary information will be able to download cost and performance information directly into spreadsheets, analyze it using commercial off-the-shelf software, or use it within investment models in other software formats. Through interactive data, what is currently static, text-based information can be dynamically searched and analyzed, facilitating the comparison of mutual fund cost, performance, and other information across multiple classes of the same fund and across the more than

8,000 mutual funds currently available.⁶³

Interactive data also provides an opportunity to automate regulatory filings and business information processing, with the potential to increase the speed, accuracy, and usability of mutual fund disclosure. Such automation may eventually reduce costs. A mutual fund that uses a standardized interactive data format at earlier stages of its reporting cycle may reduce the need for repetitive data entry and, therefore, the likelihood of human error. In this way, interactive data may improve the quality of information while reducing its cost. Also, to the extent investors currently are required to pay for access to mutual fund risk/return summary information that has been extracted and reformatted into an interactive data format by third-party sources, the availability of interactive data in Commission filings may allow investors to avoid additional costs associated with third-party sources.

As noted above, although most commenters generally supported the concept of interactive disclosure of risk/return summary information,⁶⁴ they also asserted that this initiative is premature.⁶⁵ In particular, several commenters urged the Commission to defer requiring mutual funds to submit interactive risk/return summary information because pending Commission proposals related to a mutual fund summary prospectus and exchange-traded funds ("ETFs") would change the information in the risk/return summary.⁶⁶ Related to those comments, commenters also asserted that: (1) The list of tags for risk/return summary information would require updating if the proposed changes to the risk/return summary are adopted; (2) the

⁶³ Investment Company Institute, *2008 Investment Company Fact Book*, at 15 (2008), available at: http://www.icifactbook.org/pdf/2008_factbook.pdf (as of year-end 2007, there were 8,752 mutual funds).

⁶⁴ See *supra* note 55.

⁶⁵ See *supra* note 56.

⁶⁶ See letters of Data Communiqué, Federated, ICI, Oppenheimer, Schnase, T. Rowe Price, and Vanguard. The Commission proposed revisions to Form N-1A's risk/return summary disclosure requirements as part of two separate rulemaking initiatives. See Investment Company Act Release No. 28064 (Nov. 21, 2007) [72 FR 67790 (Nov. 30, 2007)] (proposing amendments intended to enhance mutual fund disclosure of certain key information, including risk/return summary information, by, among other things, permitting mutual funds to provide such information in the form of a summary prospectus if certain conditions are satisfied) ("Summary Prospectus Initiative"); and Investment Company Act Release No. 28193 (Mar. 11, 2008) [73 FR 14618 (Mar. 18, 2008)] (proposing amendments to the mutual fund risk/return summary to provide certain information relating specifically to ETFs) ("ETF Initiative").

1A. We apply the tagging rules to the information required by amended Form N-1A.

⁶² See Item 405(b)(2) of Regulation S-T.

list of tags' architecture needed to be updated; and (3) related tools are not sufficiently developed.⁶⁷ Commenters also stated that implementation is premature because more information needs to be collected from the current voluntary program.⁶⁸

While we are sensitive to these commenters' concerns, they do not warrant delay in this important initiative, particularly given recent progress related to these comments. First, the Commission recently adopted amendments to Form N-1A related to the Summary Prospectus Initiative and the ETF Initiative.⁶⁹ These amendments do not significantly alter the content requirements of the risk/return summary section, consisting of limited modifications to the disclosure in the Fee Table.⁷⁰ Mutual funds will not be required to comply with these new Form N-1A disclosure requirements until January 1, 2010,⁷¹ providing almost one year for them to revise their disclosure. Second, as discussed further

⁶⁷ See letters of Confluence, Federated, ICI, Oppenheimer, Schnase, and T. Rowe Price.

⁶⁸ See letters of Federated, ICI, and Schnase.

⁶⁹ These amendments were presented to the Commission at an open meeting on November 19, 2008. See Summary Prospectus Adopting Release, *supra* note 28. Form N-1A changes related to both the Summary Prospectus Initiative and the ETF Initiative were adopted together in the Summary Prospectus Adopting Release.

In the Summary Prospectus Initiative, we requested comment on whether the proposed linking requirements for documents posted on an Internet Web site should be modified. See Summary Prospectus Initiative, *supra* note 66. We received one comment on this issue opposing the modification of the proposed linking requirements. See letter of Data Communiqué. The linking requirements were adopted as proposed. See Summary Prospectus Adopting Release, *supra* note 28.

⁷⁰ These amendments include: (1) Requiring mutual funds that offer discounts on front-end sales charges for volume purchases (so-called "breakpoint discounts") to include a brief narrative disclosure alerting investors to the availability of those discounts, see Item 3 of Form N-1A; Instruction 1(b) to Item 3 of Form N-1A; (2) revising the parenthetical heading for "Annual Fund Operating Expenses" in the Fee Table to read "expenses that you pay each year as a percentage of the value of your investment," see Item 3 of Form N-1A; (3) requiring mutual funds, other than money market funds, to include brief disclosure regarding portfolio turnover immediately following the fee table example, see Instruction 5 to Item 3 of Form N-1A; and (4) permitting mutual funds to place two additional captions in the Fee Table directly below the "Total Annual Fund Operating Expenses" caption in cases where there are expense reimbursement or fee waiver arrangements that will reduce any fund operating expenses, see Instruction 3(e) to Item 3 of Form N-1A. The amendments also require modification for ETFs to the narrative explanation preceding the Fee Table to clarify that investors may pay brokerage commissions not reflected in the Fee Table. Instruction 1(e)(i) and (ii) to Item 3 of Form N-1A.

⁷¹ See Summary Prospectus Adopting Release, *supra* note 28.

below,⁷² revisions to the list of tags for risk/return summary information to account for these limited disclosure changes and revisions to the architecture have been issued for public comment and are expected to be finalized by the end of January 2009. Again, this will provide mutual funds with substantial time to prepare to tag their risk/return summary information. Third, while the Commission's current viewer permits the rendering of tagged risk/return summary information, progress has been made to develop a more advanced tool that will allow issuers to test their tagged exhibits prior to submitting them to the Commission.⁷³ This upgrade to the viewer will be phased in, but should be completed during mid-2009.

Finally, the Commission has been exploring, via the voluntary program, the use of interactive data for several years, including the submission of tagged financial information and risk/return summary information. Twenty-five mutual funds have submitted over 40 exhibits tagged with interactive data, giving the Commission experience in adapting to the technology. In addition, over 100 operating companies have submitted financial statements tagged in interactive data format. Each submission has enabled issuers to gain experience with submitting tagged documents and enabled the Commission to refine its technology infrastructure to accept and efficiently render these interactive exhibits. Moreover, given the extended compliance date discussed below, mutual funds will have almost two years to resolve technical issues and may continue participating in the voluntary program in the interim to gain more experience submitting interactive data.

In addition to the recommendations to delay this initiative, some commenters expressed concern that limiting the interactive data filing requirement to only risk/return summary information could lead investors to place undue emphasis on this information,⁷⁴ and several commenters suggested that the Commission consider expanding this tagging requirement to include non-risk/return disclosures in the new mutual fund summary prospectus.⁷⁵ Two of

⁷² See *infra* Section I.I.E.1. (discussing the list of tags for risk/return summary information).

⁷³ See *infra* Section I.I.E.3. (discussing the Commission's risk/return summary interactive data viewer).

⁷⁴ See letters of ABA, Data Communiqué, and Federated. See also related discussion concerning commenters' suggestion that cautionary legends be permitted, *infra* Section I.I.B.

⁷⁵ See letters of Confluence, Data Communiqué, and Schnase; see also discussion of Summary

these commenters recommended that all items in the summary prospectus should be tagged.⁷⁶ We believe that implementation of our interactive data initiative should begin with the mutual fund risk/return summary, but we will continue to evaluate the benefits of tagging all items in the summary prospectus, as well as other information.

Several commenters questioned whether XBRL is the appropriate standard format for interactive data disclosure, asserting that it is not sufficiently developed at this time.⁷⁷ Specifically, commenters asserted that there are a limited number of commercial software products that are compatible with XBRL,⁷⁸ and that rendering and validating are still expensive and problematic issues.⁷⁹ One commenter also expressed concern that endorsing XBRL could have the effect of stifling competition for other languages, although this commenter acknowledged that she was unaware of other languages that are likely to become competitive with XBRL.⁸⁰

While we acknowledge that XBRL is an evolving technology, we believe it is the appropriate interactive data format with which to supplement ASCII and HTML. Our experience with the voluntary program, including feedback from company, accounting, and software communities, points to XBRL as the appropriate open standard for the purposes of this rule.⁸¹ XBRL data will be compatible with a wide range of open source and proprietary XBRL software applications. As discussed above, many XBRL-related products exist for analysts, investors, filers, and others to create and compare disclosures more easily, the development process will likely be hastened by mutual fund disclosure using interactive data.

Several other factors support our views regarding XBRL's broad and growing acceptance, internationally as well as in the U.S. For example, the Advisory Committee on Improvements to Financial Reporting ("CIFiR")⁸²

Prospectus Initiative, *supra* note 66, and Summary Prospectus Adopting Release, *supra* note 28.

⁷⁶ See letters of Confluence and Schnase.

⁷⁷ See letters of Gilmore, Schnase, and Starkman.

⁷⁸ See letter of Starkman.

⁷⁹ See letter of Gilmore.

⁸⁰ See letter of Schnase.

⁸¹ See note 58 of the Proposing Release, *supra* note 9.

⁸² The Commission established CIFiR to examine the U.S. financial reporting system, with the goals of reducing unnecessary complexity and making information more useful and understandable for investors. See *SEC Establishes Advisory Committee to Make U.S. Financial Reporting System More User-Friendly for Investors*, Securities and Exchange Commission Press Release, June 27, 2007,

presented its final recommendations to the Commission in its final report issued in August 2008,⁸³ which includes a recommendation that the Commission, over the long term, require the filing of financial and non-financial information using XBRL once specified conditions are satisfied.⁸⁴ We believe that sufficient progress has been made regarding each of these conditions.⁸⁵ Also, XBRL has been used by other U.S. agencies,⁸⁶ and several foreign securities regulators have adopted voluntary or required XBRL reporting.⁸⁷

B. Content and Submission Requirements for Interactive Risk/Return Summary Information

We are adopting, as proposed, the requirement that an interactive data file must be submitted to the Commission for any registration statement or post-effective amendment thereto on Form N-1A that includes or amends information provided in response to Items 2, 3, or 4.⁸⁸ In response to

available at: <http://www.sec.gov/news/press/2007/2007-123.htm>.

CIFIR conducted open meetings on March 13-14, 2008 and May 2, 2008, in which it heard reactions from an invited panel of participants to CIFIR's proposal regarding required filing of financial information using interactive data. Archived Webcasts of the meetings are available at <http://sec.gov/about/offices/oca/acifr.shtml>. The panelists presented their views and engaged with CIFIR members regarding issues relating to requiring interactive data tagged financial statements, including tag list and technological developments, implications for large and small public companies, needs of investors, necessity of assurance and verification of such tagged financial statements, and legal implications arising from such tagging.

⁸³ See *Final Report of the Advisory Committee on Improvements to Financial Reporting to the United States Securities and Exchange Commission* (August 1, 2008), ("CIFIR Report"), available at: <http://www.sec.gov/about/offices/oca/acifr/acifr-finalreport.pdf>.

⁸⁴ *Id.* at 98. The recommendation appears in chapter 4 of the CIFIR Report.

⁸⁵ See discussion at note 135, and accompanying text, of Interactive Data Adopting Release, *supra* note 6.

⁸⁶ Since 2005, the Federal Deposit Insurance Corporation ("FDIC"), the Board of Governors of the Federal Reserve System, and the Office of the Comptroller of the Currency have required the insured institutions that they oversee to file their quarterly Consolidated Reports of Condition and Income (called "Call Reports") in interactive data format using XBRL. Call Reports, which include data about an institution's balance sheet and income statement, are used by these federal agencies to assess the financial health and risk profile of the financial institution.

⁸⁷ For example, such countries include Canada, China, Israel, Japan, Korea, and Thailand.

⁸⁸ See rule 405(b)(2) of Regulation S-T; General Instruction C.3.(g).(i) of Form N-1A. We are also adopting technical amendments to rule 405 that reflect this requirement. As previously noted, rule 405 of Regulation S-T directly sets forth the basic tagging requirements and indirectly sets forth the rest of the tagging requirements through the requirement to comply with the EDGAR Filer Manual. Consistent with rule 405, the EDGAR Filer

commenters' concerns,⁸⁹ however, we are modifying our rules to encompass changes to risk/return summary information that mutual funds may make pursuant to rule 497 under the Securities Act.⁹⁰ Specifically, in the Proposing Release, we asked for comment on whether mutual funds should be required to submit tagged risk/return summary information for prospectuses submitted pursuant to rule 497 under the Securities Act. Rule 497 sets out general filing requirements for fund prospectuses and provides, among other things, that funds must file any prospectus that contains information that varies from that in the registration statement.⁹¹ Commenters addressing the matter uniformly recommended that updates to interactive risk/return summary information should be required when such information is revised in a filing made pursuant to rule 497 under the Securities Act,⁹² asserting that failure to do so could: (1) Compromise the integrity of the entire interactive data program;⁹³ (2) result in a rendered file containing different information from the current prospectus, potentially leading to liability;⁹⁴ and (3) result in investors accessing stale tagged data.⁹⁵

We agree with commenters' concerns that failure to include changes to risk/return summary information in filings made pursuant to rule 497 could result in investors and others accessing outdated interactive data. For that reason we are modifying the proposed rules, in response to the commenters' recommendations, to require that an interactive data file must be submitted to the Commission for any form of prospectus filed pursuant to rule 497(c) or (e) under the Securities Act that includes information provided in

Manual will contain the detailed tagging requirements.

⁸⁹ See *infra* note 96 and accompanying discussion.

⁹⁰ 17 CFR 230.497.

⁹¹ Specifically, (1) rule 497(c) under the Securities Act requires mutual funds to file, within five days after the effective date of a registration statement or the commencement of a public offering after the effective date of a registration statement, whichever occurs later, ten copies of each form of prospectus and form of statement of additional information ("SAI") used after the effective date; and (2) rule 497(e) under the Securities Act provides that, after the effective date of a registration statement, no prospectus that purports to comply with Section 10 of the Securities Act [15 U.S.C. 77j] or SAI that varies from any form of prospectus or form of SAI filed pursuant to rule 497(c) shall be used until filed with the Commission.

⁹² See letters of Data Communiqué, ICI, and Schnase.

⁹³ See letter of Data Communiqué.

⁹⁴ See letter of ICI.

⁹⁵ See letter of Schnase.

response to Items 2, 3, or 4 that varies from the registration statement.⁹⁶

We also are adopting, as proposed, the requirement that an interactive data file to a Form N-1A filing, whether the filing is an initial registration statement or a post-effective amendment thereto, must be submitted as an amendment to the registration statement to which the interactive data file relates and must be submitted after the registration statement or post-effective amendment that contains the related information becomes effective but not later than 15 business days after the effective date of that registration statement or post-effective amendment.⁹⁷ Our requirement that the interactive data file be submitted within 15 business days is intended both to provide funds with adequate time to prepare the exhibit and to make the interactive data available promptly. An exhibit containing interactive data format risk/return summary information can be submitted under rule 485(b) of the Securities Act, which provides for immediate effectiveness of amendments that make non-material changes, and will only need to contain the new exhibit, a facing page, a signature page, a cover letter explaining the nature of the amendment, and a revised exhibit index.

To address the inclusion of tagged risk/return summary information submitted with rule 497 filings discussed above, our amendments provide that tagged risk/return summary exhibits must be submitted with or after the filing of a form of prospectus pursuant to rule 497(c) or (e) under the Securities Act. The tagged exhibits may be submitted concurrently with the rule 497 filing or up to 15 business days subsequent to the filing made pursuant to rule 497.⁹⁸ Similar to the submissions under rule 485(b), the 15 business days is intended to provide funds adequate

⁹⁶ See General Instruction C.3.(g).(ii) of Form N-1A. We also revised paragraphs (c) and (e) of rule 497 to clarify that mutual funds must, if applicable pursuant to General Instruction C.3.(g) of Form N-1A, include an interactive data file.

⁹⁷ See General Instruction C.3.(g).(i) to Form N-1A.

⁹⁸ See General Instruction C.3.(g).(ii) to Form N-1A. Pursuant to the EDGAR Filer Manual, mutual funds should include an interactive data file as an exhibit (EX-101) contained in an EDGAR 497 submission. Funds submitting their exhibit subsequent to their initial rule 497 filing should make a second EDGAR 497 submission that includes (1) a 497 document (this 497 document may, in accordance with rule 411 under the Securities Act, incorporate by reference the first rule 497 filing and should include the accession number of that first rule 497 filing), and (2) any related interactive data exhibit.

time to prepare their interactive data exhibits.

We also are adopting, as proposed, the requirement that an interactive data file be submitted as an exhibit to Form N-1A, but also include a modification to address submissions made with rule 497 filings, providing that an interactive data file must be submitted as an exhibit to the filing made pursuant to rule 497.⁹⁹ Similar to the voluntary program, the rules require that the information contained in the risk/return summary section in the traditional format filing be the same as in the interactive data format.¹⁰⁰ We have not changed this equivalency standard for risk/return summary information provided in interactive data format as required by the rules. As proposed, we also are adopting the requirement that an interactive data file be submitted in such a manner that will permit the information for each series and, for any information that does not relate to all of the classes in a filing, each class of the fund to be separately identified.¹⁰¹ However, information that is not class-specific, such as investment objectives, is not required to be separately identified by class.

The rules do not eliminate or alter existing substantive disclosure requirements for risk/return summary information. The rules also do not eliminate or alter existing ASCII or HTML filing requirements. We believe investors and other users may wish to obtain an electronic or printed copy of the entire registration statement in ASCII or HTML, either in addition to or instead of disclosure formatted using interactive data. To clarify the intent of the rules, we have included an instruction to rule 405 of Regulation S-T stating that the rules require a disclosure format, but do not change substantive disclosure requirements.¹⁰² The rules also state clearly that the information in interactive data format should not be more or less than the information in the ASCII or HTML part of the Form N-1A filing.¹⁰³

As noted previously, several commenters expressed concern that tagging only a fund's risk/return summary information may give such information too much emphasis, and may encourage some investors to act on

incomplete information.¹⁰⁴ These commenters suggested that registrants be permitted to include a legend similar to that required as part of the voluntary program, cautioning investors, before making an investment decision, to read and consider the full prospectus or other filing from which the information was taken.¹⁰⁵ Because we believe it is inappropriate for the interactive data files to alter or differ from the information included in the related official filing, we have not included any provision permitting the inclusion of additional cautionary language in the interactive data file. Pursuant to commenters' recommendations, however, we intend to modify the Commission's interactive data viewer to include a legend recommending that users review a fund's full prospectus.¹⁰⁶ This legend on the viewer serves a similar goal as the tagged cautionary language within an interactive data file.¹⁰⁷

While one commenter asserted that interactive data should be embedded in HTML filings,¹⁰⁸ two other commenters stated that such a requirement should be deferred until embedding technology is sufficiently developed.¹⁰⁹ We agree that it is necessary to monitor the usefulness of interactive data reporting to investors and the cost and ease of providing interactive data before attempting further integration of the interactive data format. However, the rules will treat interactive data as part of the official filing, instead of as only a supplement as is the case in the voluntary program.¹¹⁰

C. Web Site Posting of Interactive Data

In the Proposing Release, we proposed to require that each mutual fund provide the same interactive data that would be required to be provided to the Commission on its Web site, if it has one. Several commenters opposed this requirement,¹¹¹ with some asserting that posting interactive data files on the

Web without a tool to convert them to viewable format may confuse and frustrate investors.¹¹²

We continue to believe that interactive data, consistent with our rules, should be easily accessible for all investors and other market participants. As such disclosure becomes more widely available, advances in interactive data software, online viewers, search engines, and other Web tools may in turn facilitate improved access to and usability of the data, promoting its awareness and use. Encouraging widespread accessibility to mutual funds' risk/return summary information furthers our mission to promote fair, orderly, and efficient markets, and facilitates capital formation. Web site availability of the interactive data will encourage its widespread dissemination, contributing to lower access costs for users. We therefore are adopting the requirement that each mutual fund provide its interactive data files on the fund's Web site, if it has one.¹¹³ The interactive data is required to be posted on a fund's Web site no later than the end of the calendar day it is submitted to the Commission or is required to be submitted to the Commission, whichever is earlier.¹¹⁴ As proposed, funds would have been required to post the interactive data on their Web sites by the end of the business day on the earlier of the date the interactive data is submitted or is required to be submitted to the Commission. In order to make it easier for mutual funds to satisfy the posting requirement by providing several more hours in which to comply but still have the posted information available in a timely manner, the rule amendments, as adopted, will require posting by the end of the calendar rather than business day specified.

We also are revising the proposed rule to require that the interactive data be posted on a fund's Web site as long as the registration statement to which it

⁹⁹ See letters of ABA, Federated, ICI, Oppenheimer, and Schnase.

¹⁰⁰ *Id.*

¹⁰¹ See *infra* Section II.E.3. (discussing the Commission's risk/return summary interactive data viewer).

¹⁰² The Commission encourages third-party viewers also to include this legend, however, we note that the liability provisions we have adopted attach only to interactive data as viewed on the Commission's viewer. See *infra* Section II.F. (discussing liability).

¹⁰³ See letter of Hamscher.

¹⁰⁴ See letters of Data Communiqué and Schnase.

¹⁰⁵ As further discussed below in Section II.F., however, for a specified period, interactive data generally will be deemed not filed for purposes of specified liability provisions.

¹⁰⁶ See letters of ABA, ICI, Schnase, Starkman, T. Rowe Price, and Vanguard.

¹⁰⁷ See letters of ICI and T. Rowe Price.

¹⁰⁸ See General Instruction C.3.(g).(i) and (ii) of Form N-1A.

¹⁰⁹ See Interactive Data Adopting Release, *supra* note 6 (adopting rule 405(g)); rule 405(a). Rule 405(a) requires posting to a "corporate" Web site. For mutual funds, this would require posting to the fund's Web site.

The day the interactive data is submitted electronically to the Commission may not be the business day on which it was deemed officially filed. For example, a filing submitted after 5:30 p.m. generally is not deemed officially filed until the following business day. Under the rules, the Web posting would be required at any time on the same calendar day that the interactive data exhibit to a mutual fund filing is deemed officially filed or required to be filed, whichever is earlier.

⁹⁹ See General Instruction C.3.(g).(iv) of Form N-1A.

¹⁰⁰ See rule 405(b)(2) of Regulation S-T.

¹⁰¹ See General Instruction C.3.(g).(iv) of Form N-1A.

¹⁰² See Interactive Data Adopting Release, *supra* note 6 (adopting Preliminary Note 2 to rule 405).

¹⁰³ See rule 405(b)(2) of Regulation S-T.

relates remains current.¹¹⁵ We believe that such a period strikes an appropriate balance between the fund effort needed to post and the investor benefit from having access to the posted material through the additional source of the mutual fund's Web site. In this regard, we note that the interactive data will be available on the Commission's Web site.

One commenter, who opposed the proposal to require Web site posting, recommended that funds instead be required to post a link to the Commission's Web site to access the XBRL files.¹¹⁶ However, we believe that access to the interactive data on mutual fund Web sites will enable search engines and other data aggregators to more quickly and cheaply aggregate the data and make them available to investors because the data will be available directly from the filer, instead of through third-party sources that may charge a fee. It could also transfer reliability costs of data availability to the public sector by reducing the likelihood that investors cannot access the data through the Commission's Web site due to down-time for maintenance or to increased network traffic. We also believe that the availability of interactive data on mutual fund Web sites will make it easier and faster for investors to collect information on a particular fund, rather than if investors were required to visit separately (for example, by hyperlink) and search the Commission's Web site for information, particularly if the investor is already searching the mutual fund's Web site. Therefore, to help further our goals of decreasing user cost and increasing information availability over the long term, our rules do not allow mutual funds to comply with the Web posting requirement by including a hyperlink to the Commission's Web site.

This requirement is consistent with the increasing role that mutual fund Web sites perform in supplementing the information filed electronically with the Commission by delivering risk/return summary information and other disclosure directly to investors. We also believe that this requirement can

¹¹⁵ See rule 405(a)(4) of Regulation S-T; see also General Instruction C.3.(g).(iii) of Form N-1A. Section 10(a)(3) of the Securities Act [15 U.S.C. 77j(a)(3)] generally requires that when a prospectus is used more than nine months after the effective date of the registration statement, the information in the prospectus must be as of a date not more than sixteen months prior to such use. The effect of this provision is to require mutual funds to update their prospectuses annually to reflect current cost, performance, and other financial information. A mutual fund updates its registration statement by filing a post-effective amendment to the registration statement.

¹¹⁶ See letter of Data Communiqué.

provide an incentive for mutual funds to add content to or otherwise enhance their Web sites thereby improving investor experience. For example, we recently adopted amendments that would permit a person to satisfy the mutual fund prospectus delivery obligations under the Securities Act by sending or giving key information directly to investors in the form of a summary prospectus and providing the statutory prospectus on an Internet Web site.¹¹⁷ Mutual funds may also satisfy certain disclosure obligations by posting required disclosures on their Web sites.¹¹⁸ In addition, many mutual funds provide on their Web sites access to their prospectuses, statements of additional information, and other Commission filings.¹¹⁹ This rule will expand such Web site posting by requiring mutual funds with Web sites to post their interactive data as well.

D. Consequences of Non-Compliance and Hardship Exemption

We are adopting, as proposed, a rule amendment providing that, if a filer does not provide the required interactive data submission, or post the interactive data on its Web site, by the required due date, the filer's ability to file post-effective amendments under rule 485(b), which provides for immediate effectiveness of amendments that make non-material and other changes, will be automatically suspended.¹²⁰ Any suspension becomes effective at the time that the filer fails to meet the requirement to submit or post interactive data and terminates as soon as the filer has submitted and posted that data. The suspension applies to a failure to submit and post interactive data as an exhibit to a registration statement or as an exhibit to

¹¹⁷ See Summary Prospectus Adopting Release, *supra* note 28. Upon an investor's request, a mutual fund also would be required to send the statutory prospectus to the investor in paper or by e-mail.

¹¹⁸ See, e.g., Securities Act Release No. 8458 (Aug. 23, 2004) [69 FR 52788 (Aug. 27, 2004)] (disclosure regarding portfolio managers); Securities Act Release No. 8408 (April 19, 2004) [69 FR 22300 (April 23, 2004)] (disclosure regarding market timing and selective disclosure of portfolio holdings); Securities Act Release No. 8393 (Feb. 27, 2004) [69 FR 11244 (Mar. 9, 2004)] (shareholder reports and quarterly portfolio disclosure); Securities Act Release No. 8188 (Jan. 31, 2003) [68 FR 6564 (Feb. 7, 2003)] (disclosure of proxy voting policies and records); Exchange Act Release No. 47262 (Jan. 27, 2003) [68 FR 5348 (Feb. 3, 2003)] (disclosure of code of ethics).

¹¹⁹ Mutual funds filing registration statements are required to disclose whether or not they make available free of charge on or through their Web site, if they have one, their SAI and shareholder reports. Funds that do not make their reports available in that manner also must disclose the reasons that they do not. See Item 1(b)(1) of Form N-1A.

¹²⁰ See rule 485(c)(3) under the Securities Act.

a filing under rule 497 under the Securities Act.

The suspension applies to post-effective amendments filed after the suspension becomes effective, but does not apply to post-effective amendments that were filed before the suspension became effective. The suspension does not apply to post-effective amendments filed solely for purposes of submitting interactive data, which will enable a filer to cure its failure to submit interactive data by filing an amendment under rule 485(b) and posting the information on its Web site. Similarly, a filer may cure a failure to submit an interactive data file that is required to be submitted with a rule 497 filing by making a subsequent rule 497 filing with the interactive data exhibit and also posting the information on its Web site.

Several commenters opposed this automatic suspension as unnecessary, particularly given Commission authority to punish those who violate its rules.¹²¹ Some commenters asserted that it could lead to potential penalties for minor violations of the interactive filing requirements.¹²² We continue to believe that precluding the use of immediate effectiveness of post-effective amendments during any period of failure to comply is an appropriate means to direct attention to the interactive data requirement without permanently suspending a mutual fund's ability to file post-effective amendments under rule 485(b) once the fund has remedied the failure. The provision strikes an appropriate balance between limiting non-compliant mutual funds from using the immediate effectiveness provision, yet also providing an easy remedy to diminish any risk of any undue penalty to funds.

We previously proposed conditioning a fund using rule 485(b) upon the fund having on file with the Commission a current report on Form N-SAR.¹²³ We ultimately did not adopt that proposal in response to commenters' criticisms that the proposal was unnecessary and potentially unfair to funds, and their recommendation that the Commission rely upon its enforcement remedies to punish late filers.¹²⁴ One commenter urged us to take a similar approach related to our proposed suspension for failure to comply with the interactive

¹²¹ See letters of ABA, Federated, ICI, and Oppenheimer.

¹²² See letters of Federated and ICI.

¹²³ 17 CFR 274.101. See Securities Act Release No. 7015 (Sept. 21, 1993) [58 FR 50291 (Sept. 27, 1993)].

¹²⁴ See Securities Act Release No. 7083 (Aug. 17, 2004) [59 FR 43460 (August 24, 1994)].

data requirements.¹²⁵ Unlike that prior proposal, which linked a fund's ability to rely upon rule 485(b) to Form N-SAR, a form separate from the registration statement, the suspension that we are adopting today relates to a specific requirement in Form N-1A. We believe that it is appropriate to link a fund's ability to receive immediate effectiveness with a requirement that the fund be current in its filing obligations with respect to that form.

Several commenters also raised concerns over the language of the suspension in proposed rule 485(c), which would apply to any "registrant."¹²⁶ The commenters asserted that a fund that is part of a series fund may be prevented from filing a post-effective amendment to its registration statement under rule 485(b) if another fund in that series had an issue with an interactive data file.

One of those commenters recommended that, if the proposal is adopted, the Commission clarify that "registrant" means the specific series at issue.¹²⁷ We do not believe that the commenter's recommendation is workable. Specifically, multi-series funds are generally contained within the same prospectus in a registration statement, and post-effective amendments are typically filed concurrently for multiple series. In such a case, it is generally unworkable to permit automatic effectiveness for certain series while prohibiting reliance upon rule 485(b) for other series in the same filing. Further, the requirement that a fund's registration statement is compliant with its interactive data obligations should apply to all of the risk/return summary information in that registration statement, and, thus, if a registrant is not current in its obligations, the ability to rely upon rule 485(b) should be suspended until remedied.

As noted in the Proposing Release, the failure to provide the required interactive data submission will not affect a mutual fund's ability to incorporate by reference the mutual fund's prospectus or statement of additional information ("SAI") into another document, such as the summary prospectus.¹²⁸ We received no comments regarding this issue.

¹²⁵ See letter of Federated.

¹²⁶ See letters of ICI, Oppenheimer, and Schnase.

¹²⁷ See letter of Schnase.

¹²⁸ Rule 303(a)(3) of Regulation S-T [17 CFR 232.303(a)(3)] restricts the ability of registered investment companies to incorporate by reference into an electronic filing documents that have not been filed in electronic format. We will not interpret rule 303 to apply to the failure to file interactive data files.

Consistent with the treatment of other applicable reporting obligations, we are adopting, as proposed, a continuing hardship exemption for the inability timely to submit electronically interactive data. Rule 202 of Regulation S-T provides for continuing hardship exemptions.¹²⁹

Rule 202 permits a filer to apply in writing for a continuing hardship exemption if information otherwise required to be submitted in electronic format cannot be so filed without undue burden or expense. If the Commission or the staff, through authority delegated from the Commission, grants the request, the filer must file the information in paper by the applicable due date and file a confirming electronic copy if and when specified in the grant of the request.

As proposed, we are revising rule 202 to provide that a grant of a continuing hardship exemption for interactive data will not require a paper submission.¹³⁰ If the filer did not electronically submit the interactive data by the end of the period for which the exemption was granted, the filer's ability to file post-effective amendments under rule 485(b) will be suspended until it does electronically submit the interactive data.¹³¹ Similarly, we are revising rule 202 to provide an essentially mirror-image exemption from the requirement for a mutual fund that has a Web site to post the interactive data on its Web site.¹³² We did not receive any comments addressing this issue.

E. Interactive Data List of Tags and Commission Viewer

1. Data Tags

Under the rule, mutual funds are required to submit their risk/return summary information in an interactive data file using the most recent list of tags released by XBRL U.S. for risk/return summary information, as approved for use by the Commission.¹³³ Interactive data is required for the entirety of the risk/return summary

¹²⁹ Rule 201 of Regulation S-T [17 CFR 232.201] provides for temporary hardship exemptions. We are not adopting a temporary hardship exemption because our rules provide a mutual fund with a 15-business day period for submitting the interactive data file for a related official filing.

¹³⁰ See rule 202 as adopted in Interactive Data Adopting Release, *supra* note 6.

¹³¹ Amendment to Note 4 to rule 202 as adopted in Interactive Data Adopting Release, *supra* note 6; rule 485(c)(3).

¹³² *Id.*

¹³³ See Interactive Data Adopting Release, *supra* note 6 (adopting amendments to rule 11 of Regulation S-T and adopting new rule 405(a) and amendments to rule 405(a)).

information, including information for all series and all classes.¹³⁴

The submission also must include any supporting files as prescribed by the EDGAR Filer Manual.¹³⁵ Mutual funds are required to tag a limited number of document and entity identifier elements, such as the form type and the fund's name. As with interactive data for the risk/return summary, these document and identity identifiers are formatted using the appropriate list of tags as required by Regulation S-T and the EDGAR Filer Manual.¹³⁶

Several commenters asserted that the list of tags for risk/return summary information required additional development before the Commission mandates filing of risk/return summaries in interactive data format.¹³⁷ Three commenters asserted that there are significant technical difficulties relating to the current list of tags,¹³⁸ noting, for example, that the current tagging software did not provide a way to accurately replicate footnotes to the fee table, or special symbols such as registered marks.¹³⁹ Commenters further asserted that mutual funds would not have sufficient time to resolve these technical issues,¹⁴⁰ to test the final list of tags,¹⁴¹ or to review the various software options for compliance with the rules.¹⁴² Several commenters also asserted that currently-available tagging software has yet to be finalized for use in rendering interactive versions of risk/return summary information.¹⁴³ These commenters urged that required use of the list of tags be delayed until these deficiencies have been remedied,¹⁴⁴ and the list has been acknowledged by XBRL International.¹⁴⁵ One commenter expressed concern that the revisions to the list would not be finalized and acknowledged by XBRL International in a brief enough time period to allow thorough evaluation and

¹³⁴ See General Instruction C.3.(g) of Form N-1A.

¹³⁵ As discussed *supra* note 17, rule 405 of Regulation S-T directly sets forth the basic tagging requirements and indirectly sets forth the rest of the tagging requirements, which are contained in the EDGAR Filer Manual. See Interactive Data Adopting Release, *supra* note 6 (adopting rule 405 of Regulation S-T).

¹³⁶ *Id.*

¹³⁷ See letters of Federated, Gilmore, ICI, Oppenheimer, Schnase, and Vanguard.

¹³⁸ See letters of Federated, ICI, and Vanguard.

¹³⁹ See letters of Federated and Vanguard.

¹⁴⁰ See letter of Federated.

¹⁴¹ See letter of ICI.

¹⁴² See letters of ICI and Oppenheimer.

¹⁴³ See letters of Federated, Gilmore, ICI, and Oppenheimer.

¹⁴⁴ See letters of Federated and Vanguard.

¹⁴⁵ See letters of ICI and Schnase.

implementation prior to the proposed compliance date.¹⁴⁶

Given the status of the list of tags for risk/return summary information, we do not believe the issues raised by commenters warrant delay of the initiative. As previously noted, XBRL U.S. has updated the architecture of the list of tags developed by the ICI and conformed the list to the changes in the risk/return summary that we adopted as part of our Summary Prospectus Initiative.¹⁴⁷ Among other things, the updates are intended to address technical problems, such as the difficulty of tagging footnotes that were cited by commenters. It is anticipated that these changes related to the architecture and addition of new tags will be finalized by the end of January 2009,¹⁴⁸ almost two years before the compliance date for submission of tagged risk/return summary information. Further, the contract with XBRL U.S. requires that the list of tags receive acknowledgment prior to finalization.

Furthermore, there are a growing number of software applications available to preparers and consumers that are designed to help make interactive data increasingly useful to both retail and institutional investors, as well as to other participants in the U.S. and global capital markets. On this basis, we believe interactive data, and in particular the XBRL standard, are growing and that the list of tags for risk/return summary information is now sufficiently comprehensive to require that mutual funds provide their risk/return summary information in interactive data format.

Updates to the list of tags for risk/return summary reporting may be posted and available for downloading from time to time to reflect changes in the risk/return summary requirements, refinements to the list of tags, or for other reasons. To provide mutual funds sufficient time to become familiar with any such updates, we anticipate giving advance notice before requiring use of an updated list of tags. Based on experience to date with the list of tags for risk/return summary information, we believe that, with the enhancements to the list of tags that XBRL U.S. is developing, the list of tags will be sufficiently developed to support the interactive data disclosure requirements in the rules.

One of the useful aspects of interactive data is its extensibility—that

is, the ability to add to the standard list of tags in order to accommodate unique circumstances in a mutual fund's particular disclosures. The use of customized tags, however, may also serve to reduce the ability of users to compare similar information across mutual funds. In order to promote comparability across funds, we are adopting, as proposed, the rule provision that limits the use of extensions to circumstances where the appropriate element does not exist in the standard list of tags.¹⁴⁹ Wherever possible and when a standard element is appropriate, preparers are required to change the label for an element that exists in the standard list of tags, instead of creating a new customized tag.¹⁵⁰ We received no comments concerning this issue.

2. Regulation S-T and the EDGAR Filer Manual

We are adopting, as proposed, the requirement that mutual funds provide interactive data in the form of exhibits to the related registration statement on Form N-1A, and we are also adopting a requirement that mutual funds provide interactive data in the form of exhibits to any related form of prospectus filed pursuant to rule 497(c) or (e) under the Securities Act that includes risk/return summary information that varies from the registration statement.¹⁵¹ Interactive data will be required to comply with our Regulation S-T¹⁵² and the EDGAR Filer Manual. The EDGAR Filer Manual is available on our Web site.¹⁵³ It includes technical information for making electronic filings with the Commission. Volume II of this manual includes guidance on the preparation, submission, and validation of interactive data submitted under the voluntary program.¹⁵⁴

In addition to both Regulation S-T, which includes the rules we are adopting, and the instructions in our

¹⁴⁹ Rule 405(c)(1)(iii)(B) as adopted in Interactive Data Adopting Release, *supra* note 6.

¹⁵⁰ Rule 405(c)(1)(iii)(A) as adopted in Interactive Data Adopting Release, *supra* note 6.

¹⁵¹ The requirement to submit interactive data as an exhibit appears in General Instruction C.3.(g).(iv) of Form N-1A.

¹⁵² Rule 405 of Regulation S-T directly sets forth the basic tagging and posting requirements for the XBRL data and requires compliance with the EDGAR Filer Manual. Consistent with rule 405, the EDGAR Filer Manual contains the detailed tagging requirements.

¹⁵³ The EDGAR Filer Manual is available at: <http://www.sec.gov/info/edgar/edmanuals.htm>.

¹⁵⁴ As previously noted, the EDGAR Filer Manual is currently being updated to incorporate changes to the tagging requirements applicable to financial data and to fund risk/return summary information. See *supra* note 17.

EDGAR Filer Manual, filers may access other sources for guidance in tagging their financial information. These include the XBRL U.S. Preparers Guide; user guidance accompanying tagging software; and financial printers and other service providers. New software and other forms of third-party support for tagging risk/return summary information using interactive data are also becoming available.

3. Commission Viewer

Some commenters asserted that the Commission's mutual fund viewer required more development before the Commission requires filings in interactive data format.¹⁵⁵ Specifically, commenters expressed concern that the viewer was too narrow and uncomfortable to read,¹⁵⁶ that filers in the voluntary program were unable to view an interactive data exhibit prior to submitting the exhibit,¹⁵⁷ and that existing viewers, including the Commission's, do not display the tagged files consistently.¹⁵⁸

While, as discussed above, the Commission's current viewer permits the rendering of tagged risk/return summary information, we are in the process of implementing changes to develop a more advanced tool that should address many of these concerns. The upgraded viewer will permit filers to conduct test filings and view rendered documents prior to submitting their exhibits. We expect these upgrades to be completed during mid-2009.

Further evaluation will be useful with respect to the availability of inexpensive and sophisticated interactive data viewers. Currently software providers are developing interactive data viewers, and we anticipate that these will become widely available and increasingly useful to investors.

As noted previously, commenters also expressed concern about the potential risks to investors of providing them with only the risk/return summary without a reference to the additional information that is contained in the registration statement.¹⁵⁹ In order to avoid confusion, three of these commenters suggested that the viewable interactive data be accompanied by a cautionary legend encouraging investors to read and consider the full prospectus or other filing from which the

¹⁵⁵ See letters of ICI, Oppenheimer, Schnase, Starkman, and Vanguard.

¹⁵⁶ See letter of Starkman.

¹⁵⁷ See letter of Vanguard.

¹⁵⁸ See letter of ICI.

¹⁵⁹ See letters of ABA, Federated, ICI, Oppenheimer, and Schnase. See also discussion at Section II.B. *supra*, note 104 and accompanying text.

¹⁴⁶ See letter of Oppenheimer.

¹⁴⁷ See Summary Prospectus Adopting Release, *supra* note 28.

¹⁴⁸ See *supra* note 51 and accompanying text.

information is taken.¹⁶⁰ Specifically, one commenter suggested that the viewable interactive data be accompanied by a cautionary legend similar to that required to be included in fund advertisements by rule 482 under the Securities Act.¹⁶¹ We agree that it is appropriate to place context on the information presented in the viewer, and to encourage investors to review a fund's prospectus. Accordingly, we will include language within any rendered risk/return summary information on the Commission's upgraded mutual fund viewer to: (1) Inform users that the information is derived from a portion of the fund's prospectus; (2) explain that the prospectus contains additional information about the mutual fund; and (3) state that a fund's prospectus should be read carefully before investing.

Commenters also raised concerns about potential liability under the federal securities laws relating to rendered interactive data filings.¹⁶² These concerns are addressed in Section II.F., below.

F. Application of Federal Securities Laws

Complete, accurate, and reliable disclosures are essential to investors and the proper functioning of the securities markets. Our requirement to submit interactive data with mutual fund registration statements is designed to provide investors with new tools to obtain, review, and analyze information from mutual funds more efficiently and effectively. To satisfy these goals, interactive data must meet investor expectations of reliability and accuracy. Many factors, including mutual fund policies and procedures buttressed by incentives provided by the Commission's application of technology, market forces, and the liability provisions of the federal securities laws, help further those goals.

New rule 406T of Regulation S-T¹⁶³ addresses the liability for an interactive data file and provides that an interactive data file is:

- Subject to the anti-fraud provisions of Section 17(a)(1) of the Securities Act, Section 10(b) of and rule 10b-5 under the Exchange Act, and Section 206(1) of the Investment Advisers Act except as provided below;

- Deemed not filed or part of a registration statement or prospectus for purposes of Sections 11 or 12 of the Securities Act, is deemed not filed for purposes of Section 18 of the Exchange Act or Section 34(b) of the Investment Company Act, and otherwise is not subject to liability under these sections;

- Deemed filed for purposes of rule 103 of Regulation S-T; and

- Subject to liability for a failure to comply with rule 405 of Regulation S-T, but shall be deemed to have complied with rule 405 and would not be subject to liability under the anti-fraud provisions set forth above or under any other liability provision if the electronic filer:

- Makes a good faith attempt to comply with rule 405; and

- After the electronic filer becomes aware that the interactive data file fails to comply with rule 405, promptly amends the interactive data file to comply with rule 405.

In regard to correcting an interactive data file, the Commission added the term "promptly" to the list of defined terms in Rule 11 under Regulation S-T.¹⁶⁴ Rule 11 defines "promptly" as "as soon as reasonably practicable under the facts and circumstances at the time." The definition is followed by a non-exclusive safe harbor. The safe harbor generally provides that a correction made by the later of 24 hours or 9:30 a.m. on the next business day after the filer becomes aware of the need for the correction is deemed promptly made. If a fund fails to comply with the safe harbor, the fund still may have corrected promptly depending on the applicable facts and circumstances.

As adopted, the liability provisions of new Rule 406T will apply only until October 31, 2014. We believe that limiting the modified application of the federal securities laws to a specified period improves the balance between avoiding unnecessary cost and expense and encouraging accuracy in regard to interactive data because it recognizes that issuers and service providers likely will grow increasingly skilled at and comfortable with the tagging requirements.

Except for the period limitation, this provision is substantially the same as the proposed treatment of interactive

data files under the proposed rules.¹⁶⁵ In the Proposing Release, the Commission sought comment on this topic, and commenters generally supported limiting the liability of mutual funds for good faith errors in tagging or formatting interactive data submissions.¹⁶⁶ As adopted, however, we include a provision that, after October 31, 2014, these liability provisions will no longer apply and an interactive data file will be subject to the same liability provisions as the related official filing.¹⁶⁷ We adopt this provision because we believe, over time, information in interactive data should be subject to the same liability as all other information in a fund's filing. The provision, however, provides funds with protections over a substantial period to become comfortable with ensuring the accuracy of their interactive data files.

As proposed, rule 406 of Regulation S-T also provided that the usual liability provisions of the federal securities laws would apply to human-readable interactive data that is identical in all material respects to the corresponding data in the traditional format filing¹⁶⁸ as displayed by a viewer that the Commission provides. Commenters raised substantial concerns over this proposal, including: (1) Seeking clarification of the liability applicable to situations not intended to be addressed explicitly by the proposed rules, such as for errors arising as a result of the Commission's interactive data rendering software,¹⁶⁹ or as a result of comparative applications provided by either the Commission or a third party;¹⁷⁰ (2) requesting clarifications that funds should not be held responsible for information converted into viewable form by non-Commission viewers,¹⁷¹ or for interactive data posted on fund Web sites;¹⁷² and (3) requesting that a mutual fund be able to incorporate by reference the fund's full prospectus and SAI into the viewable interactive data exhibit.¹⁷³

¹⁶⁵ See Proposing Release, *supra* note 9 (proposing rule 406).

¹⁶⁶ See letters of ABA, Angel, ICI, and Schnase.

¹⁶⁷ See rule 406T(d) of Regulation S-T.

¹⁶⁸ As proposed, the human-readable interactive data would have been identical to the corresponding data in the traditional format filing if the mutual fund complied with the interactive data tagging requirements of proposed rule 405.

¹⁶⁹ See letter of ABA.

¹⁷⁰ See letter of Oppenheimer.

¹⁷¹ See letters of ABA, ICI, and Oppenheimer.

¹⁷² See letters of ABA and ICI.

¹⁷³ See letters of Federated, ICI, and Schnase. One commenter noted that the risk/return summary information in a prospectus is subject to liability under Sections 11 or 12 of the Securities Act, but

¹⁶⁰ See letters of ABA, ICI, and Schnase.

¹⁶¹ See letter of ICI. See also rule 482(b)(1) under the Securities Act [17 CFR 230.482]. Rule 482(b)(1) requires a mutual fund advertisement to include a statement that "[a]dvises an investor to consider the investment objectives, risks, and charges and expenses of the investment company carefully before investing; explains that the prospectus contains this and other information about the investment company; identifies a source from which an investor may obtain a prospectus; and states that the prospectus should be read carefully before investing."

¹⁶² See letters of ABA, ICI, Oppenheimer, and Schnase.

¹⁶³ See Interactive Data Adopting Release, *supra* note 6 (adopting rule 406T of Regulation S-T).

¹⁶⁴ See Interactive Data Adopting Release, *supra* note 6 (amending Rule 11).

In response to commenters' concerns we believe that interactive data in viewable form are best addressed in relation to interactive data files and traditional concepts of liability. Interactive data in viewable form that are displayed on the Commission's Web site will reflect the related interactive data file and, as a result, such interactive data in viewable form should be treated in the same manner as the related interactive data file in regard to a fund's failure to correctly tag an interactive data file that results in a failure of the interactive data in viewable form to reflect the related official filing. Interactive data in viewable form that are displayed on other Web sites would be subject to general anti-fraud principles applicable to republication of another person's statements.¹⁷⁴ Consistent with traditional concepts of liability, a fund could not be liable twice for a failure that occurs in both an interactive data file and the related interactive data in viewable form.

We believe that this change is appropriate to address commenters' concerns and provide certainty as to the parameters of their liability related to interactive data. We also believe that it is appropriate given other protections that investors will receive related to the interactive data, including that the risk/return summary information and other disclosures in the traditional format related official filing to which the interactive data relate would continue to be subject to the usual liability provisions of the federal securities laws. For example, the traditional format related official filing would continue to be subject to Section 10(b) and rule 10b-5 of the Exchange Act and, in the appropriate circumstance, to Section 11 of the Securities Act.

In the Interactive Data Adopting Release, we elaborate further upon interactive data in viewable form and our decision not to impose any separate liability for such data.¹⁷⁵ Given that the rules do not include such provisions, we do not address further commenters' requests for clarification related to liability for rendered documents. Further, we do not believe it is needed to provide funds with the ability to

only in connection with the full prospectus in which it is contained, and the SAI that is typically incorporated therein. See letter of ICI. The commenter asserted that it would not be appropriate to isolate the risk/return summary information from the context of the entire registration statement and impose liability.

¹⁷⁴ These general anti-fraud principles relate to, among other areas, aiding and abetting, control persons, entanglement, and adoption.

¹⁷⁵ See Interactive Data Adopting Release, *supra* note 6.

incorporate by reference into rendered documents, given that liability is not imposed separately upon interactive data in viewable form.

In the Proposing Release, we did not propose to permit or require cautionary legends for interactive risk/return summary information. Several commenters expressed concern about the potential consequences of investor reliance on incomplete information.¹⁷⁶ Two commenters suggested that the Commission require viewable interactive risk/return disclosures to include a cautionary disclosure similar to the legend we recently required for the new mutual fund summary prospectus, which advises investors where to locate additional information about the fund in the fund's prospectus and SAI, and permits a fund to incorporate certain information by reference into the summary prospectus.¹⁷⁷ As noted in Section II.E. above, we agree with commenters that it is appropriate to alert investors about the availability of additional information in a fund's prospectus. Therefore, we will include cautionary language on the Commission's mutual fund viewer encouraging investors to review a fund's full prospectus.

We believe, however, that attempting to place in interactive data legends of the type suggested would be impracticable because interactive data will often be accessed in its machine-readable form and, even if it were accessed in viewable form, might not be accessed in a place where the legend would appear. As to a legend that states people should not rely on the interactive data in particular, such a legend would be inappropriate because there is no reason the data should not be reliable and, were it not reliable, it would have little value.¹⁷⁸

We are adopting, as proposed, the requirement that an interactive data file consist of "no more and no less" than the corresponding risk/return summary information in the related official filing.¹⁷⁹ One commenter expressed concern that submitting interactive risk/return summary information for multiple funds may confuse some investors who seek data about only a

single fund.¹⁸⁰ However, as a result of our Summary Prospectus Initiative, multiple fund prospectuses must present the summary information for each fund sequentially and not integrate the information for more than one fund.¹⁸¹ Since risk/return summary information for multiple funds will no longer be permitted to be combined in the prospectus, this information will also, in accordance with rule 405, be presented separately in interactive format. In view of this requirement, interactive risk/return summary information for multiple funds should be as easy for investors to locate and understand as similar information for a single-fund prospectus.

To assist mutual funds in ensuring the accuracy of their XBRL filings, we plan, in the future, to make available to mutual funds the opportunity to make a test submission with the Commission to create viewable interactive data.¹⁸² If the validation system finds an error, it will advise the filer of the nature of the error and whether the error was major or minor. As occurs in the voluntary program, a major error in an interactive data exhibit that is part of a live filing will cause the exhibit to be held in suspense in the electronic filing system. The rest of the filing will be accepted and disseminated if there are no major errors outside of the interactive data exhibit. If that happens, the filer will need to revise the interactive data exhibit to eliminate the major error and submit the exhibit as an amendment to the filing to which it is intended to appear as an exhibit. A minor error in an interactive data exhibit that is part of a live filing will not prevent the interactive data exhibit from being accepted and disseminated together with the rest of the filing if there are no major errors in the rest of the filing. We believe it is appropriate to accept and disseminate a filing without the interactive data exhibit submitted with it if only the exhibit has a major error, in order to disseminate at least as much information at least as timely as would have been disseminated were there no interactive data requirement.

The rule does not require mutual funds to involve third parties, such as auditors or consultants, in the creation of the interactive data provided as an exhibit to a mutual fund's Form N-1A filing, including assurance.¹⁸³ We are

¹⁷⁶ See letters of ABA, Federated, ICI, Oppenheimer, and Schnase.

¹⁷⁷ See letters of ICI and Schnase; see also Summary Prospectus Adopting Release, *supra* note 28.

¹⁷⁸ We reach a different conclusion regarding a tagged legend in the voluntary program and continue to require such legends to provide investors with limited additional notice because that information is not part of the official filing and was intended for experimental submissions.

¹⁷⁹ Rule 405(b)(2) of Regulation S-T.

¹⁸⁰ See letter of ICI.

¹⁸¹ See Summary Prospectus Adopting Release, *supra* note 28.

¹⁸² The EDGAR Filer Manual addresses test submissions primarily at Section 6.6.5 of Volume II.

¹⁸³ With respect to registration statements, SAS 37 (AU Section 711) was issued in April 1981 to address the auditor's responsibilities in connection

taking this approach after considering various factors, including:

- Commenters' views;
- The availability of a comprehensive list of tags for risk/return summary information from which appropriate tags can be selected, thus reducing a mutual fund's need to develop new elements;
- The availability of user-friendly software with which to create the interactive data file;
- The delayed compliance date, prior to which mutual funds may become familiar with the tagging of risk/return summary information;
- The availability of interactive data technology specifications, and of other XBRL U.S., XBRL International, and Commission resources for preparers of tagged data;¹⁸⁴
- The advances in rendering/presentation software and validation tools for use by preparers of tagged data that can identify the existence of certain tagging errors;
- The expectation that preparers of tagged data will take the initiative to develop practices to promote accurate and consistent tagging; and
- The mutual fund's and preparer's liability for the accuracy of the traditional format version of the risk/return summary information.

G. Changes to the Voluntary Program

Mutual funds will no longer be able to submit risk/return summary information in interactive data format through the voluntary program after the compliance date for the mandatory rules. We are amending rule 401 of Regulation S-T to remove risk/return summary information as a category of information permitted to be submitted under the voluntary program effective after the compliance date for the mandatory rules.¹⁸⁵ This amendment differs from our proposal which would have removed the option to file risk/return summary information under the voluntary program altogether. This change makes explicitly clear that mutual funds may continue to experiment with the submission of risk/return summary information in interactive data format up until the compliance date for these rule amendments. For this same reason, we are not adopting proposed changes to rule 8b-33 under the Investment

with filings under the federal securities statutes. With respect to our rule, an auditor will not be required to apply AU Section 711 to the interactive data provided as an exhibit in a fund's registration statement, or to the viewable interactive data.

¹⁸⁴ An example of Commission resources includes the EDGAR Filer Manual.

¹⁸⁵ See rule 401(b)(iv).

Company Act and certain technical amendments to rule 401 of Regulation S-T.¹⁸⁶

Further, in order to encourage participation in the voluntary program for tagging investment company financial information, we are adopting, substantially as proposed, amendments to enable investment companies that are registered under the Investment Company Act, business development companies, and other entities that report under the Exchange Act and prepare their financial statements in accordance with Article 6 of Regulation S-X to submit exhibits containing a tagged schedule of portfolio holdings without having to submit other financial information in interactive data format.¹⁸⁷ As with the current voluntary program, volunteers will be able to participate merely by submitting a tagged *Schedule I—Investments in Securities of Unaffiliated Issuers* ("Schedule I").¹⁸⁸ To facilitate this, XBRL U.S. developed a list of tags that could be used to tag portfolio holdings. On October 21, 2008, XBRL U.S. issued its Schedule of Investments Taxonomy for public comment.¹⁸⁹ The taxonomy is expected to be finalized by XBRL U.S. by the end of January 2009.

Currently, the interactive data furnished under the voluntary program must consist of at least one item from a list of enumerated mandatory content ("Mandatory Content"), including financial statements, earnings information, and, for registered management investment companies, financial highlights or condensed financial information and risk/return summary information set forth in Form N-1A.¹⁹⁰ We are adding Schedule I information as a separate item of Mandatory Content that participants can submit in order to give volunteers greater flexibility in tagging fund data.

Several commenters asserted that expanding the voluntary program to include fund portfolio holdings

¹⁸⁶ See proposed rule 8b-33; proposed rule 401(b)(1)(iv); proposed rule 401(d)(1)(i); and proposed rule 401(d)(2)(i) in the Proposing Release, *supra* note 9.

¹⁸⁷ Rule 401(b)(1)(v) (designating *Schedule I—Investments in securities of unaffiliated issuers* as mandatory content under the voluntary program). The voluntary program will be modified to permit participation only by registered investment companies, business development companies, and other entities that report under the Exchange Act and prepare their financial statements in accordance with Article 6 of Regulation S-X. See Interactive Data Adopting Release, *supra* note 6 (rule 401(a)).

¹⁸⁸ Rule 12-12 of Regulation S-X [17 CFR 210.12-12].

¹⁸⁹ See *supra* note 51.

¹⁹⁰ Rule 401(b)(1) of Regulation S-T [17 CFR 232.401(b)(1)].

information was premature.¹⁹¹ These commenters stated that (1) the information would not be meaningful to individual investors;¹⁹² (2) the taxonomy does not yet exist;¹⁹³ and (3) more experience with the technology is necessary before expansion of the program.¹⁹⁴ Given that participants may already provide portfolio holdings information as part of their financial statements under the voluntary program, we disagree with these comments. The expansion of the voluntary program to permit the submission of portfolio holdings information simply provides volunteers with an alternative to submitting complete financial statement information and increases the options for participation in the program. Investors, financial intermediaries, and third-party information providers, among others, use the portfolio holdings data contained in Schedule I to make decisions concerning the purchase and continued holding of funds and for other purposes. Portfolio holdings data may be even more useful to these various stakeholders if such data is interactive.

Under the current voluntary program, any official filing with which tagged exhibits are submitted must disclose that the financial information is "unaudited" or "unreviewed," as applicable and that the purpose of submitting the tagged exhibits is to test the related format and technology and, as a result, investors should not rely on the exhibits in making investment decisions.¹⁹⁵ We believe that this cautionary disclosure should also be tagged and included within each interactive data exhibit, in order to help alert investors and other users that the exhibits should not be relied on in making investment decisions. Accordingly, we are requiring, as proposed, that this disclosure be included in the exhibits submitted pursuant to the voluntary program as a tagged data element,¹⁹⁶ consistent with how the cautionary disclosure is presented in risk/return summary exhibits under the current voluntary program.

H. Compliance Date

The rules require all mutual funds to submit interactive data with any registration statement or post-effective

¹⁹¹ See letters of Data Communiqué, ICI, and Vanguard.

¹⁹² See letter of Data Communiqué.

¹⁹³ See letter of ICI.

¹⁹⁴ See letter of Vanguard.

¹⁹⁵ Rule 401(d)(1)(ii) of Regulation S-T [17 CFR 232.401(d)(1)(ii)].

¹⁹⁶ See rule 401(d)(2).

amendment on Form N-1A that includes or amends risk/return summary information and with any form of prospectus filed pursuant to rule 497(c) or (e) under the Securities Act that contains risk/return summary information that varies from the registration statement.¹⁹⁷ The first required submissions will be for initial registration statements and post-effective amendments that are annual updates to effective registration statements¹⁹⁸ and that become effective after January 1, 2011. Further, no mutual fund is required to comply with the provision to submit a tagged risk/return summary exhibit with any form of prospectus filed pursuant to rule 497(c) or (e) under the Securities Act until that fund has first submitted an exhibit with its registration statement.

In the Proposing Release, we asked for comment on an anticipated compliance date that would require submissions for initial registration statements and post-effective amendments that are annual updates to effective registration statements and that become effective after December 31, 2009. Commenters generally objected to this compliance date, asserting that adoption of the requirement to tag risk/return summary information is premature, given that the Commission's pending Summary Prospectus Initiative and ETF Initiative would change the required information in the risk/return summary.¹⁹⁹

Commenters also asserted that the proposed schedule for implementation of interactive data tagging should be delayed because it did not allow mutual funds sufficient time to resolve outstanding technical issues or to review the various options for compliance with the rule.²⁰⁰ Others asserted that more information is needed to be collected from the current voluntary program, including costs and benefits.²⁰¹ Two commenters supported phasing in the interactive data requirements based on the size of a mutual fund's total net assets, with larger funds becoming subject to the rules first.²⁰² Finally, commenters also noted that implementing tagging of the current risk/return summary is premature given that the risk/return summary and the taxonomy could potentially change as a result of the

Summary Prospectus Initiative and the ETF Initiative.²⁰³

While we believe that these comments warrant a change in the compliance date to ensure funds have sufficient time to prepare their first risk/return summary submissions in interactive data format, they do not justify a substantial delay in implementation of this initiative. First, as we discussed above, we recently adopted final amendments to Form N-1A in the Summary Prospectus Adopting Release,²⁰⁴ and, therefore, do not believe those commenter concerns warrant delaying implementation of this tagged risk/return summary information.²⁰⁵

Second, for the reasons we discussed in Section II.A., we believe that the compliance date we are adopting will allow mutual funds sufficient time to prepare risk/return summary information in interactive data format. As we noted previously, XBRL U.S. has updated the list of tags to reflect our most recent revisions to mutual fund risk/return disclosure requirements, and has submitted this list for public comment, after which it will be submitted for acknowledgment to XBRL International. This process should be completed by the end of January 2009. Therefore, we believe that the list of tags for risk/return summary information is now sufficiently advanced, to require that mutual funds provide their risk/return summary information in interactive data format. Further, as discussed above, over the last three years the Commission has gained experience with interactive data in the voluntary program covering both mutual fund risk/return and financial statement information.

We do, however, recognize that requiring mutual funds to tag their risk/return summary information at the same time that they are revising their prospectuses for the recent amendments to Form N-1A in the Summary Prospectus Adopting Release could result in an unnecessary burden. For that reason, we are making a modification to the compliance date so that mutual funds have an additional year before they are required to submit tagged risk/return summary information. This period of almost two years should provide funds with sufficient time to prepare the amended

disclosures and interactive data submissions based on those disclosures.

While the requirements we recently adopted for interactive submission of financial data include a schedule of tiered implementation, we believe that mutual fund investors have an important interest in having access to interactive risk/return data from all funds concurrently. Therefore, we are adopting, as proposed, a single compliance date for all mutual funds. We expect that most mutual funds that are part of smaller fund families, which generally are disproportionately affected by regulatory costs, will be able to provide their risk/return summary information in interactive data format without undue effort or expense. While interactive data reporting involves changes in reporting procedures mostly in the initial reporting periods, we expect that these changes will provide efficiencies in future periods. As a result, there may be potential future net savings to the mutual fund, particularly if interactive data become integrated into the mutual fund's disclosure process. While we recognize that requiring interactive data risk/return summary information will likely result in start-up expenses for all mutual fund families, we expect that both software and third-party services will be available to help meet the needs of mutual fund families, including meeting the unique needs of smaller mutual fund families.

We are sensitive to concerns expressed by some commenters that undue expense and burden may accompany the adoption of required interactive data reporting.²⁰⁶ We believe that the extended compliance date and the proposed 15-business day period for making interactive data submissions seem to alleviate these concerns.²⁰⁷

Under the rules we are adopting, the voluntary program is being modified to allow for participation by mutual funds with respect to risk/return summary information up until January 1, 2011, but continue to permit investment companies to participate with respect to financial statement information thereafter. Investment companies may submit their tagged portfolio holdings information, pursuant to the rules we are adopting, at any time after the effective date of these rules, July 15, 2009. This effective date was chosen to coincide with the release of an updated EDGAR Filer Manual which will

¹⁹⁷ See General Instruction C.3.(g) to Form N-1A.

¹⁹⁸ See *supra* note 11 and accompanying text.

¹⁹⁹ See *supra* note 69 and accompanying text.

²⁰⁰ See letters of Federated, ICI, and Oppenheimer.

²⁰¹ See letters of Federated, ICI, and Schnase.

²⁰² See letters of Data Communiqué and Schnase.

²⁰³ See letter of ICI, Oppenheimer, T. Rowe Price, and Vanguard.

²⁰⁴ See *supra* notes 69 and 70 and accompanying text.

²⁰⁵ These amendments were adopted on November 19, 2008. See *supra* note 69, and Summary Prospectus Adopting Release, *supra* note 28.

²⁰⁶ See letters of ICI, Schnase, and Starkman.

²⁰⁷ We discuss more fully *supra* at Section II.F liability related to required submissions of interactive data.

incorporate the new list of tags for portfolio holdings information.

We intend to monitor implementation and, if necessary, make appropriate adjustments to the adopted amendments.

III. Paperwork Reduction Act

A. Reporting and Burden Estimate

Certain provisions of the rule and form amendments contain "collection of information" requirements within the meaning of the Paperwork Reduction Act of 1995 ("PRA").²⁰⁸ The titles for the collections of information are: (1) "Mutual Fund Interactive Data" (OMB Control No. 3235-0642) and (2) "Voluntary XBRL-Related Documents" (OMB Control No. 3235-0611). We published notice soliciting comments on the collection of information requirements in the release proposing the amendments²⁰⁹ and submitted the proposed collections of information to the Office of Management and Budget ("OMB") for review and approval in accordance with 44 U.S.C. 3507(d) and 5 CFR 1320.11.²¹⁰ OMB has assigned a control number to the collection of information for mutual fund interactive data. We received four comments on the collection of information requirements²¹¹ and have revised the estimated reporting and cost burdens of the rule and form amendments, as discussed below. An agency may not conduct or sponsor, and a person is not required to respond to, an information collection unless it displays a currently valid OMB control number. Because we have modified our proposals as described above, we are revising the burden estimate for the Mutual Fund Interactive Data collection of information. We have submitted a revised request to OMB.

The title for the new collection of information for submitting risk/return summary information in interactive data format that the amendments establish is "Mutual Fund Interactive Data". This collection of information relates to already existing regulations and forms adopted under the Securities Act, the Exchange Act, and the Investment Company Act that set forth disclosure requirements for mutual funds and other issuers. The amendments require mutual funds to submit their risk/return summary information in interactive data format and post it on their Web sites, if

any, in interactive data form. The specified risk/return summary information already is and will continue to be required to be submitted to the Commission in traditional format under existing disclosure requirements. Compliance with the amendments is mandatory beginning with initial registration statements and post-effective amendments that are annual updates to effective registration statements that become effective after January 1, 2011.²¹²

The title for the collection of information for submitting portfolio holdings in interactive data format is "Voluntary XBRL-Related Documents". The amendments will permit investment companies that are registered under the Investment Company Act, business development companies, and other entities that report under the Exchange Act and prepare their financial statements in accordance with Article 6 of Regulation S-X to submit exhibits containing a tagged schedule of portfolio holdings without having to submit other financial information in interactive data format. Compliance with these amendments is voluntary.

B. Submission of Risk/Return Summary Information Using Interactive Data

Form N-1A (OMB Control No. 3235-0307) under the Securities Act and the Investment Company Act²¹³ is used by mutual funds to register under the Investment Company Act and to offer their securities under the Securities Act. The information required by the new collection of information, corresponds to the risk/return summary information now required by Form N-1A and is required to appear in exhibits to Form N-1A, exhibits to prospectuses with risk/return summary information that varies from the registration statement, and on mutual funds' Web sites.

In the Proposing Release, we estimated that each mutual fund would submit one interactive data document as an exhibit to a registration statement or a post-effective amendment thereto on Form N-1A that includes or amends information provided in response to Items 2 or 3.²¹⁴ We estimated in the Proposing Release that interactive data filers would require an average of approximately 13 burden hours to tag risk/return summary information in the first year, and the same task in subsequent years would require an

average of approximately 11 hours.²¹⁵ Therefore, we estimated the average annual burden over a three-year period to be approximately 12 hours.²¹⁶

In response to commenters' concerns, however, we are modifying our rules to include changes to risk/return summary information that mutual funds are permitted to make pursuant to rule 497 under the Securities Act.²¹⁷ Based on a limited, random, non-statistical survey by Commission staff of filings made pursuant to rule 497, we estimate that 5% of mutual funds, or approximately 443 funds,²¹⁸ will make changes to risk/return summary information in filings submitted pursuant to rule 497. Based on estimates of 8,856 mutual funds each submitting one interactive data document as an exhibit to a registration statement or post-effective amendment thereto²¹⁹ and 443 mutual funds submitting an additional interactive data document as an exhibit to a filing pursuant to rule 497, each incurring 12 hours per year on average, we estimate that, in the aggregate, interactive data adoption will result in an additional 111,588 burden hours for all mutual funds for each of the first three years.²²⁰ Converted into dollars, this amounts to approximately \$23,768,244.²²¹

One commenter challenged the estimates provided in the Proposing Release, asserting that the sample of voluntary program participants is too small and consists mostly of large fund

²¹⁵ The average burden hours for the first and subsequent submissions were calculated using data collected from a voluntary program participant questionnaire. See *infra* Section IV.

²¹⁶ (13.33 hours for the first submission + 11.275 hours for the second submission + 11.275 hours for the third submission) ÷ 3 years = approximately 12 hours.

²¹⁷ See *supra* notes 90 through 95 and accompanying text.

²¹⁸ 5% × 8,856 mutual funds = approximately 443 mutual funds.

²¹⁹ This estimate is based on an analysis by the Division of Investment Management staff of publicly available data.

²²⁰ (8,856 mutual funds + 443 mutual funds) × 12 incremental burden hours per mutual fund = 111,588 burden hours.

²²¹ This cost increase is estimated using an estimated hourly wage rate of \$213.00 ((111,588 burden hours) × (\$213.00 hourly wage rate) = \$23,768,244 total incremental internal cost). The estimated wage figure is based on published rates for compliance attorneys and programmer analysts, modified to account for an 1800-hour work-year and multiplied by 5.35 to account for bonuses, firm size, employee benefits, and overhead, yielding effective hourly rates of \$270 and \$194, respectively. See Securities Industry and Financial Markets Association, *Report on Management & Professional Earnings in the Securities Industry 2007* (Sept. 2007) ("SIFMA Report"). The estimated wage rate was further based on the estimate that compliance attorneys would account for one quarter of the hours worked and senior system analysts would account for the remaining three quarters, resulting in a weighted wage rate of \$213.00 per hour ((\$270 × .25) + (\$194 × .75)).

²⁰⁸ 44 U.S.C. 3501 *et seq.*

²⁰⁹ See Proposing Release, *supra* note 9, 73 FR at 35459.

²¹⁰ See Proposing Release, *supra* note 9, 73 FR at 35457-59.

²¹¹ See letters of Confluence, ICI, Schnase, and Starkman.

²¹² See *supra* Section II.H.

²¹³ 17 CFR 239.15A; 17 CFR 274.11A.

²¹⁴ This information is now contained in Items 2, 3, and 4. See *supra* note 61.

complexes.²²² We note that the 22 participants in the voluntary program at that time included both larger and smaller funds, and, therefore, the estimates derived from our experiences with this program reflect burdens incurred by funds of varying sizes.²²³ Of these 22 funds, six funds, representing a range of fund complex sizes, provided data in response to the voluntary program questionnaire concerning internal and external costs of preparing and submitting interactive risk/return summary information.²²⁴

We further estimate, as we did in the Proposing Release, that mutual funds will require an average of approximately 1 burden hour to post interactive data to their Web sites. Based on estimates of 8,856 mutual funds posting interactive data, each incurring 1 burden hour per year on average, we estimate that, in the aggregate, adoption of Web site posting requirements will result in an additional 8,856 burden hours for all mutual funds.²²⁵ Converted into dollars, this amounts to approximately \$2,214,000.²²⁶

One commenter asserted that the Commission's cost estimates may be vastly understated because they omit the much larger cost of converting fund Web sites to XBRL compatibility.²²⁷ This commenter did not provide any specific cost estimates to support this assertion. Complying with the Web site posting requirement, however, does not require conversion of the fund's Web site infrastructure.

We also estimate, as we did in the Proposing Release, that software and consulting services will be used by mutual funds for an increase of approximately \$802 per mutual fund.²²⁸

²²² See letter of Schnase.

²²³ As we noted above in Section I.A., to date 25 funds have participated in the voluntary program. However, at the time of our Proposing Release, only 22 funds had submitted interactive data risk/return summary information.

²²⁴ The average burden hours for the first and subsequent submissions were calculated using data collected from six responses to a voluntary program participant questionnaire from mutual funds that participated in the voluntary program. See *infra* Section IV.A.

²²⁵ 8,856 mutual funds × 1 burden hour per mutual fund = 8,856 burden hours.

²²⁶ (\$250 × 1 hour × 8,856 mutual funds). This cost estimate is based on informal discussions with a limited number of persons believed to be generally knowledgeable about preparing, submitting, and posting interactive data. See *infra* Section IV.A.

²²⁷ See letter of Starkman.

²²⁸ For purposes of this estimate, we assumed that the largest 50 fund complexes will develop software in-house incurring costs of \$125,000 in the first year. Assuming that the largest 50 fund complexes will develop software for use in all of their funds, and that their funds encompass 80% of the number of funds (7,085), then the average first year cost for those funds will be $(\$125,000 \times 50) / 7,085 = \882 .

Based on the estimate of 8,856 mutual funds using software and consulting services at an annual cost of \$802 we estimate that, in the aggregate, the total external costs to the industry will be approximately \$7,098,970.²²⁹ While one commenter asserted that these estimates do not include professional costs from outside accountants and lawyers,²³⁰ we note that this estimate does reflect the external cost data provided in response to the voluntary program questionnaire. Respondents to the questionnaire universally indicated that they did not use the services of outside accountants in preparing their interactive data submissions. A few of the respondents indicated that they used the services of an outside attorney in preparing their interactive data submissions, however, only one respondent indicated a *de minimis* expense for such services. A few respondents who did not use the services of an outside attorney for their voluntary filing did indicate they would work with an outside attorney to prepare their interactive data submission upon adoption of our rule amendments. These costs were reflected in our estimates in the Proposing Release.

One commenter also stated that costs for the voluntary program participants were low because many fund groups received tagging software and services at no cost, which the commenter anticipated would not be the case upon the adoption of our rule amendments.²³¹ We note, however, that our survey data included information from funds that used no-cost software and from one fund that created its own software in-house at great expense.²³² We believe our cost estimates provide an adequate picture of the initial software expenditures for funds to comply with our rule amendments.

One commenter asserted that automated tagging and filing processes would reduce the risk and cost associated with manual processes.²³³

Therefore, for those funds using software developed internally, the average 3 year cost will be approximately \$827 ($\882 in the first year + $\$800$ in the second year + $\$800$ in the third year) ÷ 3 years = approximately \$827. The average 3 year cost for those funds that use commercial software will be $\$700$ ($\$500$ in the first year + $\$800$ in the second year + $\$800$ in the third year) ÷ 3 years = $\$700$. Assuming 80% of funds incurred costs of \$827 and 20% of funds incurred costs of \$700, the average software and consulting cost per mutual fund will be approximately \$802. These estimates were derived from responses to a voluntary program questionnaire. See *infra* Section IV.A.

²²⁹ 8,856 mutual funds × \$802 = approximately \$7,098,970.

²³⁰ See letter of Schnase.

²³¹ See letter of ICI.

²³² See *infra* note 252.

²³³ See letter of Confluence.

We agree that such software tools may help minimize both the burden on respondents and the risk of errors in the collection process. While this commenter noted that additional software tools would need to be introduced in order to allow data to be identified and tagged at its source, thereby automating the processing of the risk/return data, we expect that the development of such tools is likely to be hastened by mutual fund disclosure using interactive data. As noted previously,²³⁴ there is a growing number of software applications available to preparers and consumers that are designed to help make interactive data increasingly useful to both retail and institutional investors.

Regulation C and Regulation S-T

Regulation C (OMB Control No. 3235-0074) describes the procedures to be followed in preparing and filing registration statements with the Commission. Regulation S-T (OMB Control No. 3235-0424) specifies the requirements that govern the electronic submission of documents. The changes to these items that we are adopting will add and revise rules under Regulations C and S-T. As we explained in the Proposing Release, the additional collection of information burden that will result from these changes, however, are included in Form N-1A, and we have reflected the burden for these new requirements in the burden estimate for the new collection of information "Mutual Fund Interactive Data." The rules in Regulations C and S-T do not impose any separate burden.

C. Changes to the Voluntary Program

We are decreasing the burden associated with the existing collection of information for Voluntary XBRL-Related Documents to reflect the amendments. Mutual funds will no longer be able to submit risk/return summary information in interactive data format through the voluntary program after the compliance date for the mandatory rules.

When we adopted the amendments to expand the voluntary program to enable mutual funds voluntarily to submit risk/return summary information in interactive data format, we estimated an increase to the existing collection of information for Voluntary XBRL-Related Documents.²³⁵ We estimated that 10% of the approximately 545 fund complexes that have mutual funds, or 55 fund complexes, would each submit

²³⁴ See *supra* Section II.E.

²³⁵ See Risk/Return Voluntary Program Adopting Release, *supra* note 32.

documents containing tagged risk/return summary information for one mutual fund.²³⁶ We further estimated that the initial creation of tagged documents containing risk/return summary information would require, on average, approximately 110 burden hours per mutual fund, and the creation of such tagged documents in subsequent years would require an average 10 burden hours per mutual fund. Because the PRA estimates represent the average burden over a three-year period, we estimated the average hour burden for the submission of tagged documents containing risk/return summary information for one mutual fund to be approximately 43 hours.²³⁷

Based on our previous estimates of 55 participants submitting tagged documents containing risk/return summary information for one mutual fund once per year and incurring 43 hours per submission, we estimated that, in the aggregate, the industry would incur an additional 2,365 burden hours associated with the amendments.²³⁸ We further estimated that 75% of this burden increase, or approximately 1,774 hours, would be borne internally by the mutual fund complexes. We estimated that this internal burden increase converted to dollars would amount to a total annual increase of internal costs of approximately \$393,828.²³⁹

We also estimated that 25% of the burden, or approximately 591 hours, would be outsourced to external professionals and consultants retained by the mutual fund complex at an average cost of \$256.00 per hour for a total annual increase of approximately \$151,296.²⁴⁰ In addition, we estimated that the cost of licensing software would be \$333 per participant per year, for a total annual increase of \$18,315.²⁴¹ Altogether, we estimated the total annual increase in external costs related to the amendments would be \$169,611.²⁴²

Given that mutual funds will no longer be able to submit risk/return

²³⁶ In the case of a mutual fund with multiple series, our estimate treated each series as a separate mutual fund.

²³⁷ (110 hours in the first year + 10 hours in the second year + 10 hours in the third year) ÷ 3 years = 43 hours.

²³⁸ 55 documents per year × 43 hours per submission = 2,365 hours.

²³⁹ See note 82 of the Risk/Return Voluntary Program Adopting Release, *supra* note 32.

²⁴⁰ See note 83 of the Risk/Return Voluntary Program Adopting Release, *supra* note 32.

²⁴¹ \$333 per participant × 55 participants = \$18,315.

²⁴² This annual total consisted of \$151,296 in outside professional costs plus \$18,315 in software costs.

summary information in interactive data format through the voluntary program some time after adoption of the amendments, we will reduce the internal hour burden associated with the voluntary program by 1,774 hours and the internal cost burden by \$393,828. We will also reduce the external cost burden by \$169,611.

The amendments to the voluntary program also enable investment companies that are registered under the Investment Company Act, business development companies, and other entities that report under the Exchange Act and prepare their financial statements in accordance with Article 6 of Regulation S-X to submit exhibits containing a tagged schedule of portfolio holdings without having to submit other financial information in interactive data format. As with the current voluntary program, volunteers can participate, without pre-approval, merely by submitting Schedule I in interactive data format.

One commenter stated that the cost estimates from the voluntary program did not include many, or any, costs associated with tagging data other than the risk/return summary, such as portfolio holdings information.²⁴³ We note, however, that the hour and cost burdens for voluntary interactive data submissions of portfolio holdings information were discussed separately from the hour and cost burdens for the submission of risk/return summary information in interactive data format in the Proposing Release and also are discussed below.

We estimate that 20 registrants will choose to submit a schedule of portfolio holdings in interactive data format.²⁴⁴ We believe that investment companies that are registered under the Investment Company Act, business development companies, and other entities that report under the Exchange Act and prepare their financial statements in accordance with Article 6 of Regulation S-X will participate, given the flexibility provided by a new option to submit exhibits containing just portfolio holdings information in interactive data format.

Submission of portfolio holdings information in interactive data format will not affect the burden of preparing the registrants' traditional format filings. In order to provide portfolio holdings information in interactive data format, a participating registrant will have to tag

²⁴³ See letter of Schnase.

²⁴⁴ This estimate is based on the current level of participation in the voluntary program, in which 25 funds have submitted interactive risk/return summary information.

Schedule I and submit the resulting interactive data file as an exhibit to its filing on Form N-CSR or Form N-Q.²⁴⁵ A list of tags that could be used to tag portfolio holdings is expected to be finalized by the end of January 2009. Based on our experience with mutual funds that have submitted risk/return summary information in the current voluntary program, we estimate that the initial creation of portfolio holdings information in interactive data format will require, on average, approximately 12 burden hours per registrant,²⁴⁶ and the creation of such information in interactive data format in subsequent years will require an average of 10 burden hours per registrant.²⁴⁷ Because the PRA estimates represent the average burden over a three-year period, we estimate the average hour burden for the submission of portfolio holdings information in interactive data format for one registrant to be approximately 11 hours.²⁴⁸

Based on the estimate of 20 registrants submitting interactive data files containing portfolio holdings information once each year and incurring 11 hours per submission we estimate that, in the aggregate, the industry will incur an additional 220 burden hours associated with the proposed amendments.²⁴⁹ We estimate

²⁴⁵ Form N-CSR [17 CFR 249.331; 17 CFR 274.128]; Form N-Q [17 CFR 249.332; 17 CFR 274.130].

²⁴⁶ Mutual funds submitting risk/return summary information in our voluntary program indicated that an initial submission in the voluntary program took approximately 13 hours of labor. Given that the submission of portfolio holdings in interactive data format is less complex than the submission of risk/return summary information in interactive data format but potentially requires the tagging of many more individual items, we estimate that the initial creation of interactive data files containing portfolio holdings information will require, on average, approximately 12 burden hours per volunteer.

²⁴⁷ Mutual funds submitting risk/return summary information in the current voluntary program indicated that each set of submissions, after the initial set, would take approximately 11 burden hours, or 2 hours less than the initial submission. We estimate that the reduction in burden hours for subsequent submissions of portfolio holdings information in interactive data format will be a similar 2 hour reduction, or approximately 10 burden hours per volunteer.

²⁴⁸ (12 hours in the first year + 10 hours in the second year + 10 hours in the third year) ÷ 3 years = approximately 11 hours. While the PRA requires an estimate based on a hypothetical three years of participation, a registrant, as noted earlier, could participate in the voluntary program by submitting portfolio holdings information in interactive data format over a shorter period or even just once as the registrant chooses.

²⁴⁹ 20 documents per year × 11 hours per submission = 220 hours. We note that mutual funds submit portfolio holdings information to the Commission four times per year. However, for purposes of our analysis, we estimate that mutual funds choosing to participate in the voluntary

that this internal burden increase converted to dollars will amount to approximately \$47,000.²⁵⁰

We also estimate that external professionals and consultants will be retained by the registrant for an increase of approximately \$600.00.²⁵¹ It is our understanding that annual software licensing costs generally would be included in the cost of hiring external professionals and consultants.²⁵² Based on the estimate of 20 registrants retaining external professionals and consultants at an annual cost of \$600.00 we estimate that, in the aggregate, the total external cost to the industry will be \$12,000.²⁵³

As a result of the changes to the voluntary program, we therefore estimate a total decrease in internal burden hours of approximately 1,600²⁵⁴ and a total decrease in internal costs of approximately \$347,000.²⁵⁵ We further estimate a total decrease in external costs of approximately \$158,000.²⁵⁶

program will submit portfolio holdings information in interactive data format once each year.

²⁵⁰ This cost increase is estimated by multiplying the increase in annual internal hour burden (220) by the estimated hourly wage rate of \$213.00. See *supra* note 221.

²⁵¹ (\$100.00 in the first year + \$800.00 in the second year + \$800.00 in the third year) ÷ 3 years = approximately \$600.00. Mutual funds participating in our voluntary program for the submission of risk/return summary information in interactive data format indicated an initial external cost of \$100.00 for the hiring of external professionals and consultants and projected an annual cost of \$800.00 for external service providers going forward. The increase going forward was due to the fact that two of the participants indicated that each of their external service providers had waived its fee for the initial submission.

²⁵² We note that one respondent spent over \$100,000 internally to develop software to submit risk/return summary information in interactive data format. We did not include this number in our calculations as this software was developed solely for purposes of submitting risk/return summary information and not for submitting financial information in interactive data format. See *infra* note 270.

We also note that one commenter stated that our estimated costs for interactive data software and services were low because many fund groups received tagging software and services at no cost. See *supra* note 231 and accompanying text.

²⁵³ 20 registrants submitting interactive data files under the voluntary program × \$600.00 = \$12,000.

²⁵⁴ (1,774 hours for the removal of risk/return summary information from the voluntary program – 220 hours for the submission of schedule of portfolio holdings in interactive data format = approximately 1,600 hours.)

²⁵⁵ (\$393,828 for the removal of risk/return summary information from the voluntary program – \$47,000 for the submission of schedule of portfolio holdings in interactive data format = approximately \$347,000.)

²⁵⁶ (\$169,611 for the removal of risk/return summary information from the voluntary program – \$12,000 for the submission of schedule of portfolio holdings in interactive data format = approximately \$158,000.)

IV. Cost/Benefit Analysis

A. Submission of Risk/Return Summary Information Using Interactive Data

The interactive data framework that we are adopting has the potential to remove a barrier in the flow of information between mutual funds and users of information that is conveyed through mutual fund disclosures. This should enable less costly dissemination of information and thereby improve the allocation of capital. The cost of implementation will depend primarily on the costs of transition by mutual funds to the new mode of reporting. The magnitudes of these benefits and costs from any individual mutual fund's adoption of interactive data reporting will depend on the number of other mutual funds that also adopt and on the availability of supporting software and other infrastructures that enable analysis of the information. To the extent that submitted information allows investors to make investment decisions based on market-wide comparison and analysis, the value to the investors of the reported information tends to increase with the total number of mutual funds adopting the regime. Likewise, mutual funds' incentives to report their information using interactive data depends on the interest level of the investors in this mode of reporting. By mandating implementation, the rule will expand the network of adopters and thereby create positive network externalities of reported information for the investors.

In the Proposing Release, we requested public comment and empirical data regarding the costs and benefits of the amendments. Three commenters generally expressed concern about the costs of implementing the Commission's proposal and the uncertain nature of any cost efficiencies or cost savings.²⁵⁷ One commenter stated that investors will not be helped by the additional costs incurred by mutual funds as a result of the proposal and that the required interactive disclosure will be static and quickly outdated.²⁵⁸ None of these commenters provided any specific quantitative data relating to cost estimates.

1. Benefits of Interactive Data Submissions and Web Site Posting

The rules have the potential to benefit investors both directly and by facilitating the exchange of information between mutual funds and the third party information providers and other

intermediaries who receive and process mutual fund disclosures.

Information Access

Benefits of the rulemaking accrue from the acceleration of market-wide adoption of interactive data format reporting. The magnitudes of the benefits thus depend on the value to investors of the new reporting regime relative to the old reporting regime and on the extent to which the mandated adoption speeds up the market-wide implementation.

Requiring mutual funds to file their risk/return summary information using the interactive data format enables investors, third-party information providers, and the Commission staff to capture and analyze that information more quickly and at a lower cost than is possible using the same information provided in a static format.²⁵⁹ Even though the new regime does not require any new information to be disclosed or reported, certain benefits accrue when mutual funds use an interactive data format to report their risk/return summary information. These include the following. Through interactive data, what is currently static, text-based information can be dynamically searched and analyzed, facilitating the comparison of mutual fund cost, performance, and other information across multiple classes of the same fund and across the more than 8,000 funds currently available. Any investor with a computer has the ability to acquire and download data that have generally been available only to intermediaries and third-party analysts. For example, users of risk/return summary information can download it directly into spreadsheets, analyze it using commercial off-the-shelf software, or use it within investment models in other software formats. Also, to the extent investors currently are required to pay for access to mutual fund risk/return summary information that has been extracted and reformatted into an interactive data format by third-party sources, the availability of interactive data in Commission filings will allow investors to avoid additional costs associated with third-party sources.

The magnitude of this informational benefit varies, however, with the availability of sophisticated tools that will allow investors to analyze the information. The growing development of software products for users of interactive data is helping to make interactive data increasingly useful to

²⁵⁷ See letters of Gilmore, ICI, and Schnase.

²⁵⁸ See letter of Federated.

²⁵⁹ See *supra* Section II.A.

both institutional and retail investors.²⁶⁰ For example, currently there are many software providers and financial printers that are developing interactive data viewers. We anticipate that these will become widely available and increasingly accessible to investors. We expect that the open standard feature of the interactive data format will facilitate the development of applications, and software, and that some of these applications may be made available to the public for free or at a relatively low cost. The continued improvement in this software will allow increasingly useful ways to view and analyze mutual fund risk/return summary information to help investors make more well-informed investment decisions.

Interactive data also provides a significant opportunity for mutual funds to automate their regulatory filings and business information processing, with the potential to increase the speed, accuracy, and usability of mutual fund disclosure. This reporting regime may in turn reduce filing and processing costs.

By enabling mutual funds to further automate their disclosure processes, interactive data may eventually help funds improve the timeliness of, and speed at which they generate information. For example, with standardized interactive data tags, registration statements may require less time for information gathering and review. One commenter expressed some skepticism about the ability of interactive data to create internal efficiencies that may ultimately result in cost savings.²⁶¹ We continue to believe, however, that internal efficiencies may be one of several possible benefits of interactive data tagging.

A mutual fund that uses a standardized interactive data format at earlier stages of its reporting cycle may also increase the accuracy of its disclosure by reducing the need for repetitive data entry that could introduce errors and enhancing the ability of a mutual fund's in-house professionals to identify and correct errors in the fund's registration statements filed in traditional electronic format. There has been a growing development in both the number and capabilities of software products and applications to assist mutual funds to tag their risk/return summary information using interactive data

helping make interactive data increasingly useful.²⁶²

Mutual funds that automate their regulatory filings and business information processing in a manner that facilitates their generation and analysis of disclosures should, as a result, realize a reduction in costs.

Market Efficiency

The requirements may benefit investors by making financial markets more efficient in regard to the following:²⁶³

- Capital formation as a result of mutual funds being in a better position to attract shareholders because of greater (less costly) awareness on the part of investors of mutual fund risk/return summary information; and
- Capital allocation as a result of investors' being better able to allocate capital among those mutual funds seeking it because of interactive data reporting's facilitating innovations in efficient communication of mutual fund risk/return summary information.

More Efficient Capital Formation

An increase in the efficiency of capital formation is a benefit that may accrue to the extent that interactive data reduces some of the information barriers that make it costly for mutual funds to find appropriate sources of new investors. In particular, smaller mutual fund complexes are expected to benefit from enhanced exposure to investors. If interactive data risk/return summary reporting increases the availability, or reduces the cost of collecting and analyzing, mutual fund risk/return summary data, as anticipated, then there could be improved coverage of mutual funds in smaller fund complexes by third party information providers and commercial data vendors.

At present, some mutual funds in smaller fund complexes do not provide their data to third party information providers.²⁶⁴ This may reduce the likelihood that their data is readily available to investors who use commercially available products to assess mutual fund performance. If interactive data reporting increases coverage of mutual funds in smaller fund complexes by third-party

information providers, and this increases their exposure to investors, then lower search costs for shareholders could result.

More Efficient Capital Allocation

An increase in the efficiency of capital allocation may accrue to the extent that interactive data increase the quality of information by reducing the cost to access, collect, and analyze mutual fund risk/return summary information or improve the content of mutual fund-reported information.²⁶⁵ An increase in quality and improvement in content should enable investors to better allocate their capital among mutual funds.

Information quality in mutual fund markets is likely to be higher as a result of interactive data reporting, leading to more efficient capital allocation. As a result of the improved utility of information, investors may be able to evaluate various mutual funds, thereby facilitating capital flow into their favored investment prospects.

We believe that requiring mutual funds to provide interactive data is likely to improve the quality of risk/return summary information available to end users, and helps spur interactive data-related innovation in the supply of mutual fund comparative products, resulting from a potential increased competition among suppliers of such products due to lower entry barriers as a result of lower data collection costs.

However, we have considered competing views of the informational consequences of interactive data. For example, a requirement to submit interactive data information could decrease the marginal benefit of collecting information and thus reduce the information quality to the extent it reduces third-party incentives to facilitate access to, collect, or analyze information. Assuming that markets efficiently price the value of information, the amount of information accessed, collected (or enhanced), and analyzed will be determined by the marginal benefit of doing so.²⁶⁶ Lowering information collection costs (through a requirement to submit interactive data information) should

²⁶² *Id.*

²⁶³ We believe the benefits will stem primarily from the requirement to submit interactive data to the Commission and the Commission's disseminating that data. We also believe, however, that the requirement that mutual funds with Web sites post the interactive data required to be submitted would encourage its widespread dissemination thereby contributing to lower access costs for users and the related benefits described.

²⁶⁴ Analysis by Division of Investment Management staff based on publicly available data.

²⁶⁵ In the context of the discussion below, quality refers to the ease with which end-users of risk/return summary information can access, collect, and analyze the data. This issue is separate from the content of mutual fund-reported information.

²⁶⁶ Also, we expect that because the rules require the use of the XBRL interactive data standard, the open standard nature of XBRL will facilitate the development of related software, some of which may, as a result, be made available to the public for free or at a relatively low cost and provide the public alternative ways to view and analyze interactive data information.

²⁶⁰ See SEC's Office of Interactive Disclosure Urges Public Comment as Interactive Data Moves Closer to Reality for Investors, Securities and Exchange Commission Press Release, Dec. 5, 2007, available at: <http://www.sec.gov/news/press/2007/2007-253.htm>.

²⁶¹ See letter of ICI.

increase this benefit. If this is so, then there should be no degradation in the level of information quality as a result of changes in third-party provider behavior under an interactive data reporting regime. However, if one competitor in the industry can subsidize its operations through an alternative revenue stream, both quality and competition may suffer.²⁶⁷

Another potential information consequence of the requirements is how the precision and comparability of the information disseminated by data service providers may change because the interactive data requirements will shift the source of data formatting that allows aggregation and facilitates comparison and analysis from end-users to mutual funds submitting interactive data. At present, data service providers manually key risk/return summary information into a format that allows aggregation. As a result, the data service provider makes interpretive decisions on how to aggregate reported items so that they can be compared across all mutual funds. Consequently, when a subscriber of the commercial product offered by a data service provider uses this aggregated data, it can expect

²⁶⁷ For illustration purposes only, assume that an Internet service company develops an interactive data-based tool that easily provides mutual fund risk/return summary information for free to all subscribers, and it uses this product as a loss leader to increase viewership and advertising revenue. If the data provided is of the same quality as data provided through subscription to other available commercial products, then there should be no informational efficiency loss. However, if a data aggregator's providing information that improves investor interpretation and goes beyond risk/return summary information is possible, but no longer profitable to produce for competitors without the subsidy, then valuable information production may be lost.

consistent interpretation of the reported items. In contrast, the requirement for mutual funds to submit interactive data information will require mutual funds to independently decide within the confines of applicable requirements which "tag" best describes each item within the risk/return summary—lessening the amount of interpretation required by data service providers or end-users of the data. Once a standard tag is chosen, comparison to other funds is straightforward. However, because mutual funds have some discretion in how to select tags, and can extend the taxonomy (create new tags) when an appropriate tag does not exist, unique interpretations by each fund could result in reporting differences from what current data service providers and other end-users would have chosen. This view suggests that the fund-submitted information disseminated by data service providers may be, on the one hand, less comparable because they have not normalized it across mutual funds but, on the other hand, more accurate because the risk of human error in the manual keying and interpretation of filed information will be eliminated and more precise because it will reflect decisions by the mutual funds themselves. Replicating prior methods still will be possible, however, because mutual funds continue to be required to file risk/return summary information in traditional format. As a result, nothing prohibits data service providers from continuing to provide data in the same manner that they did before. Nonetheless, interactive data benefits could diminish if other reporting formats are required for clarification in data aggregation.

The content of mutual fund-reported information may improve because, as previously discussed, a mutual fund that uses a standardized interactive data format at earlier stages of its disclosure cycle may increase the accuracy of its disclosure. In contrast, the content of mutual fund-reported information may improve or decline to the extent that the interactive data process influences what mutual funds disclose. While the requirements to submit and post interactive data information are designed to be disclosure neutral, it is possible they may affect what is disclosed.

2. Costs of Interactive Data Submissions and Web Site Posting

The primary cost of the rule amendments is the cost of mutual funds' implementation of the rule, which includes the costs of submitting and posting interactive data. We discuss this cost element extensively below. In addition, because the rules allow an increase in the flow of risk/return summary information being reported directly to third party information providers and investors, there will be a cost of learning on the part of the investors in using and analyzing risk/return summary information at the interactive data level.

As for the cost of implementation of the rule, based on currently available data, we estimate the average direct costs of submitting and posting interactive data-formatted risk/return summary information for all mutual funds under the proposed rules will, based on certain assumptions, be as follows:

TABLE—ESTIMATED DIRECT COSTS TO INDIVIDUAL FUNDS OF SUBMITTING INTERACTIVE DATA-FORMATTED RISK/RETURN SUMMARY INFORMATION

	First submission	Subsequent submissions
Preparation ²⁶⁸	\$2,600	\$2,300
Software and consulting services ²⁶⁹	²⁷⁰ 20,600	800
Web site posting ²⁷¹	250	250
Total cost	23,450	3,350

The above estimates are generated from a limited number of voluntary program participant questionnaire responses. In particular, these responses provided detail on the actual and projected costs of preparing risk/return summary information in interactive data format and for purchasing software or related filing agent services. A detailed analysis of the costs associated with voluntary program participation suggests that the estimated direct cost of submitting risk/return summary information in interactive data format falls within the range of \$735.50 to \$127,500 per fund for the first submission.²⁷² This cost reflects expenditures on interactive data-related software, consulting or filing agent services used, and the market rate for all internal labor hours spent (including training) to prepare, review, and submit the first interactive data format risk/return summary information. The future experiences of individual mutual funds regarding risk/return summary information filed in an interactive data format still may vary according to the mutual funds' size, complexity, and other factors not apparent from the voluntary program participant responses

and commenters' responses. The discussion below summarizes the direct cost estimates of compliance regarding risk/return summary submissions based on voluntary program participant questionnaire responses and the specified assumptions.²⁷³

- Average cost of first submission, excluding the costs of Web site posting, from voluntary program questionnaire data is \$23,200.
- Projected average cost of subsequent submissions, excluding the costs of Web site posting, from voluntary program questionnaire data is \$3,100.

This analysis attempts to quantify some of the direct costs that mutual funds will incur to submit and post interactive data. Whether mutual funds choose to purchase and learn how to use software packages designed for interactive data submissions or outsource this task to a third party, internal (labor) resources will be required to complete the task. The cost estimates provided here using voluntary program participant questionnaire responses shed light on the potential dollar magnitude of the costs of requiring interactive data submissions.

At the time the Commission proposed these amendments, 22 mutual funds had participated in the voluntary program for interactive risk/return summaries. Of these, nine were provided questionnaires on the details of their cost experience, and six responses were collected representing the cost data for ten funds.²⁷⁴ The table below summarizes the aggregate costs per mutual fund, including software and filing agent service costs and an estimated cost for the internal labor hours required to prepare and submit the interactive data format information. The low and high estimates of the cost for internal labor hours were calculated using a variety of billing rates corresponding to the job descriptions of internal personnel involved in preparing the tagged risk/return summaries.²⁷⁵ The reported costs are calculated using responses from the 6 voluntary program participants that provided responses. Those six respondents represent mutual fund complexes whose assets comprise a range of approximately 0.1% to 12.00% of all the assets of the mutual funds that will be required to submit interactive data.²⁷⁶

²⁶⁸ Estimates based on risk/return summary voluntary program questionnaire responses. The voluntary program questionnaire responses indicated that different filers use different personnel to prepare interactive data submissions. We calculated costs for each participant based upon the personnel each individual respondent to the voluntary program questionnaire indicated it used and the length of time it indicated the personnel spent on the preparation. The numbers in the table represent the average of all of these calculations. The following wage rates were assumed for preparation cost estimates: operations specialist—\$129; paralegal—\$168; senior compliance examiner—\$180; intermediate business analyst—\$183; senior accountant—\$185; programmer analyst—\$194; financial reporting manager—\$268; and attorney—\$295. These estimated wage figures are based on published rates for the personnel above, modified to account for bonuses, firm size, employee benefits, and overhead, yielding the effectively hourly rates above. See SIFMA Report, *supra* note 221.

²⁶⁹ Software licensing and the use of a consultant can be substitutionary—mutual funds can choose to do one or the other, or do both—and are thus aggregated.

²⁷⁰ We note that one volunteer expended over \$100,000 in information technology to develop internal software that applies interactive data tags to risk/return summary information. This one expenditure by one fund resulted in a higher average software and consulting services cost per fund of \$20,600 for the first submission. Excluding this data, the average software and consulting services costs per fund would have been approximately \$500.

While our averages imply that the costs of internally developing software is allocated to one fund in the sample, in reality the complex that developed the software will likely use that software for all of its funds. Thus the development cost could be allocated across all funds within that complex rather than to one fund.

²⁷¹ Voluntary program participants were not required to post on their Web sites, if any, the interactive data information they submitted. Consequently, the costs of the requirement to post interactive data information are not derived from the voluntary program participant questionnaire responses or discussed in our analysis of those responses. Those costs are, instead, derived from informal discussions with a limited number of

persons believed to be generally knowledgeable about preparing, submitting, and posting interactive data.

²⁷² See *supra* note 270 with respect to the high end of the range.

²⁷³ The details of this analysis regarding risk/return summary information, including the underlying assumptions and other considerations related to both the costs and benefits of requiring submission of interactive data, are provided following the summary.

²⁷⁴ The questionnaires requested data for one fund; however, several questionnaire respondents voluntarily submitted cost information for more than one fund.

²⁷⁵ See *supra* note 221. These estimates are from the 2007 SIFMA Report, modified to account for an 1,800-hour work-year and multiplied by 5.35 to account for bonuses, firm size, employee benefits, and overhead. Questionnaire respondents apportioned time spent tagging risk/return summaries among various job types.

²⁷⁶ Based on total mutual fund assets of \$10.6 trillion. Lipper-Directors' Analytical Data, Reuters Sept. 2008.

TABLE—SUMMARY OF ILLUSTRATIVE SURVEY DATA ON THE DIRECT COST ESTIMATES FOR VOLUNTARY PROGRAM PARTICIPANTS

	All voluntary program participants respondents	
	Low	High
First submission:		
Estimated costs	\$735.50	²⁷⁷ \$127,500
Subsequent submissions:		
Estimated costs	\$555.00	\$5,640
Average reduction in cost:		
From first to second submission	24.54%	²⁷⁸ 95.58%

Scalability of Interactive Data-Related Support Services and Technology

The final cost consideration in this section is the scalability of interactive data-related support services and technology. In particular, it is unclear how the market for interactive data support services and technology will change in light of the adoption of the rule amendments.

The roles of each potential kind of service provider within the interactive data market are likely to develop further and are not yet clear, and there are many potential participants to consider, including the software vendors, print/filing agents, and consultants, as well as the Commission.²⁷⁹ Until the market of mutual funds that submit interactive data information grows substantially larger, it is difficult to predict how standard solutions will evolve. For example, we do not know whether mutual funds will adopt solutions that create interactive data submissions using third party software, a so-called “bolt-on” approach, or will seek integrated solutions that enable funds to prepare interactive data submissions from their existing software. Moreover, filing agents may maintain their role as an intermediary by offering interactive data technology or other service providers may cause that role to change. Others with technical expertise may participate in the technology with unpredictable results.

Combining the uncertainty over the source of future interactive data services with increased demand for these services could result in a new equilibrium market price that is different from what is currently reported by voluntary program participants. This

price will be higher if the demand for interactive data services increases (from 15 mutual fund complexes currently participating in the voluntary program to approximately 683 mutual fund complexes²⁸⁰ participating) at a faster rate than the supply for these same services. More broadly, if the interactive data requirement results in clients subscribing for interactive data services faster than the rate at which these services can be supplied, then a price increase is the natural discriminator in how to allocate limited resources.

The submission costs discussed in this section suggest that if interactive data is implemented too quickly it could result in higher than necessary submission costs if the supply of interactive data-related resources is constrained, but the effect will likely diminish as a market place for interactive data services develops. Hence, this concern is mitigated by delaying the requirement that mutual funds submit interactive data until January 1, 2011. This delay is designed to allow interactive data service suppliers to keep pace with demand.

B. Changes to Voluntary Program

In order to facilitate further evaluation of data tagging, the rule amendments will enable investment companies that are registered under the Investment Company Act, business development companies, and other entities that report under the Exchange Act and prepare their financial statements in accordance with Article 6 of Regulation S–X to submit exhibits containing a tagged schedule of portfolio holdings without having to submit other financial information in interactive data format.

1. Benefits

We believe that portfolio holdings information in interactive data format will allow more efficient and effective retrieval, research, and analysis of registrants’ portfolio holdings through

automated means. The proposed amendments to the voluntary program will assist us in assessing whether using interactive data tags enhances users’ ability to analyze and compare portfolio holdings information included in filings with the Commission.

Currently, a number of companies use computers and data entry staff to mine portfolio holdings information provided by mutual funds and others in order to populate databases that are used to package information for sale to analysts, funds, investors, and others. Permitting funds and other entities to tag portfolio holdings information in Commission filings will aid this data-mining process in that it will identify points of data at the source, which will reduce the cost to populate databases and improve the accuracy of that data. Additionally, the changes to the voluntary program will benefit funds and the public by permitting experimentation with data tagging using the new portfolio holdings list of tags when it is created.

In the future, the availability of potentially more accurate information about mutual funds and other entities will also reduce the cost of research and analysis and create new opportunities for companies that compile, provide, and analyze data to produce more value added services. Enhanced access to information submitted in interactive data format also will allow retail investors (or financial advisers assisting such investors) to perform more personalized and sophisticated analyses and comparisons of mutual funds and other investment options, which will result in investors making better informed investment decisions, and therefore in a more efficient distribution of assets by investors among different funds. This may, in turn, also contribute to increased competition among mutual funds and other entities and result in a more efficient allocation of resources among competing investment products. Although it is not possible to quantify precisely the beneficial effects of more efficient allocation of investors’ assets

²⁷⁷ We note that these costs are higher due to one questionnaire respondent who spent significantly more than all other respondents to create its own interactive data software in-house. See *supra* note 270.

²⁷⁸ *Id.*

²⁷⁹ In addition, mutual fund complexes with a large number of funds may consider developing software in-house since that cost could be allocated across all of their funds.

²⁸⁰ See ICI 2008 Investment Company Fact Book, *supra* note 63, at 14 (683 fund sponsors).

and increased competition, they may be significant, given the size of the mutual fund industry.

Other benefits resulting from the inclusion of portfolio holdings information as a stand-alone item in the voluntary program will include an increase in the accuracy of information and the potential for increased timeliness of data that investors use to make informed investment decisions. Another benefit is that portfolio holdings information submitted in interactive data format will allow automated, instantaneous extraction of every investment disclosed in the schedule of portfolio holdings. Finally, the investment analysis process may become more efficient and effective through the increased use of automation and reduced human intervention that should result from the use of interactive data.

2. Costs

The amendments to the voluntary program will lead to some costs for filers choosing to submit portfolio holdings information in interactive data format. For purposes of the PRA, we estimated that the increase in annual internal burden hours to the industry will be approximately 220 hours, which will amount to an increase in costs of approximately \$47,000 and that the increase in annual external costs per filer will amount to approximately \$600 per year for a total estimated increase to the industry of approximately \$12,000 on an annual basis.²⁸¹

We based these cost estimates upon, among other things, experience with mutual funds who have submitted risk/return summary information in interactive data format in the current voluntary program.²⁸² Due to the fact that no mutual fund has submitted portfolio holdings information through the voluntary program, however, we have limited data to quantify the cost of implementing the use of interactive data tags applied to portfolio holdings information. In the future, there may be additional costs to current users of EDGAR data. For example, companies that currently provide tagging and dissemination of EDGAR data may experience decreased demand for their services. These entities have developed certain products and services based on data in EDGAR; many entities disseminate, repackage, analyze, and sell the information. Allowing filers to submit tagged portfolio holdings information, even voluntarily, may have an impact on entities providing EDGAR-

based services and products. Because the Commission does not regulate all these entities, it is currently not feasible to accurately estimate the number or size of these potentially affected entities. The limited, voluntary nature of the program will help the Commission assess the effect, if any, on these entities. Additionally, the availability of interactive data on EDGAR may provide these companies with alternative business opportunities.

Combined with the removal of risk/return summary information from the voluntary program, we estimated for PRA purposes that there will be a total decrease of 1,600 burden hours which will amount to approximately \$347,000, and a total decrease in external costs of approximately \$158,000. Therefore, the total cost decrease to the industry for purposes of the PRA for the rule amendments related to the voluntary program is \$505,000.²⁸³

V. Consideration of Burden on Competition and Promotion of Efficiency, Competition, and Capital Formation

Section 23(a)(2) of the Exchange Act²⁸⁴ requires us, when adopting rules under the Exchange Act, to consider the impact that any new rule would have on competition. In addition, Section 23(a)(2) prohibits us from adopting any rule that would impose a burden on competition not necessary or appropriate in furtherance of the purposes of the Exchange Act. Furthermore, Section 2(b)²⁸⁵ of the Securities Act, Section 3(f)²⁸⁶ of the Exchange Act, and Section 2(c)²⁸⁷ of the Investment Company Act require the Commission, when engaging in rulemaking that requires it to consider or determine whether an action is necessary or appropriate in the public interest, to consider, in addition to the protection of investors, whether the action will promote efficiency, competition, and capital formation.

A. Submission of Risk/Return Summary Information Using Interactive Data

The rule amendments to require mutual funds to submit interactive data to the Commission and post it on their Web sites are intended to make risk/return summary information easier for investors to analyze while assisting in automating regulatory filings and business information processing. As

discussed previously,²⁸⁸ we believe that these amendments are likely to benefit investors by making financial markets more efficient in regard to capital formation by reducing some of the information barriers that make it costly for mutual funds to find appropriate sources of new investors. Similarly, these requirements may enable investors to better allocate their capital among mutual funds by reducing the cost to access, collect, and analyze mutual fund risk/return summary information and by improving the content of fund-reported information available to investors. Since lower data collection costs would lower entry barriers for suppliers of interactive-data-related fund comparative products, these requirements also may result in increased competition among these suppliers, which, in turn, would help spur innovation with respect to such products.

We requested comment on whether the proposed amendments would promote efficiency, competition, and capital formation. One commenter asserted that requiring funds to utilize the current list of tags when revisions are likely in the near term would be inefficient and costly.²⁸⁹ As noted above, however, revisions to the list of tags for risk/return summary information have been issued for public comment and are expected to be finalized by the end of January 2009. Again, this will provide mutual funds with substantial time to prepare to tag their risk/return summary information. This commenter also stated that its members were skeptical that using XBRL for risk/return summary information will create internal efficiencies that would ultimately result in cost savings.²⁹⁰ While the internal efficiencies of interactive data for mutual funds are currently unquantified, we continue to believe that they may be available to mutual funds. Further, as discussed in detail above, we anticipate that the rules may lead to more efficient capital formation and allocation.²⁹¹

We understand that private sector businesses such as those that access mutual fund information and aggregate, analyze, compare, or convert it into interactive format have business models and, as a result, competitive strategies that the adopted interactive data requirements might affect. Since interactive data technology is designed to remove an informational barrier,

²⁸³ This estimate was derived from previously reported costs estimates from the voluntary program.

²⁸⁴ 15 U.S.C. 78w(a)(2).

²⁸⁵ 15 U.S.C. 77b(b).

²⁸⁶ 15 U.S.C. 78c(f).

²⁸⁷ 15 U.S.C. 80a-2(c).

²⁸⁸ See *supra* Section IV.A.1.

²⁸⁹ See letter of ICI.

²⁹⁰ *Id.*

²⁹¹ See *supra* Section IV.A.1.

²⁸¹ See *infra* Section III.A.2.

²⁸² See *supra* note 268.

business models within the mutual fund services industry that are currently adapted to traditional format document reporting may change, with possible consequences for the revenue stream of current product offerings due to the competitive effects of such a change. The competitive effects may relate to changes in the accessibility of risk/return summary information to investors, the nature of the information that investors receive, and the potential from new entry or innovation in the markets through which mutual fund disclosures are transmitted from mutual funds to investors. For example, lower entry barriers that result from lower data collection costs may increase competition among third party information providers and help spur interactive data-related innovation. It is also possible, however, that increased competition from new market entrants could reduce industry profit margins, and, as a result, the quality of services may suffer. For example, and illustration purposes only, assume that an Internet service company develops an interactive data-based tool that easily provides risk/return summary information for free to all subscribers, and it uses this product as a loss leader to increase viewership and advertising revenue. If the data provided is of the same quality as data provided through subscription to other available commercial products, then there should be no informational efficiency loss and the quality of services should not be impaired. However, if the incumbent service providers provide a higher quality of information that improves investor interpretation beyond risk/return summary information, but they find that it is no longer profitable to produce this information as a result of subsidized products from inferior providers, then valuable information production may be lost.

For the reasons described more fully above, we believe the liability protections for interactive data are necessary or appropriate in the public interest and consistent with the protection of investors. Moreover, the protections are also consistent with the purposes fairly intended by the policy and provisions of the Investment Company Act.

B. Changes to the Voluntary Program

The amendments no longer allow mutual funds to submit risk/return summary information in interactive data format through the voluntary program after the compliance date for the mandatory rules and enable investment companies that are registered under the Investment Company Act, business

development companies, and other entities that report under the Exchange Act and prepare their financial statements in accordance with Article 6 of Regulation S-X to submit exhibits containing a tagged schedule of portfolio holdings without having to submit other financial information in interactive data format. The changes to the voluntary program are intended to help further evaluate the usefulness to investors, third-party information providers, investment companies, the Commission, and the marketplace of interactive data and, in particular, of submitting portfolio holdings information in interactive data format. Because compliance with the amendments is voluntary, the Commission estimates that the impact of the amendments will be limited. However, because the submission of portfolio holdings information in interactive data format has the potential to facilitate analysis of that information, we believe that the amendments could promote efficiency by allowing us and others to gain experience with portfolio holdings information in interactive data format.

Further, submitting portfolio holdings information in interactive data format has the potential to help streamline the delivery of portfolio holdings information, and provide investors and others with improved tools to compare funds and other entities. As with the filing of risk/return summary information in interactive data format, we believe that the potential to streamline the delivery of portfolio holdings information and to provide investors and others with improved comparison tools could promote efficiency and competition through more efficient allocation of investments by investors and more efficient allocation of assets among competing funds and other investment products.

In the future, companies that currently provide tagging and dissemination of EDGAR data may experience decreased demand for their services. The availability of interactive data on the Commission's electronic filing system however, may provide these companies with alternative business opportunities. We do not anticipate that the amendments will have a significant impact on capital formation. Finally, because the amendments are designed to permit mutual funds and other entities to provide information in a format that we believe will be more useful to investors, we believe that the amendments are appropriate in the public interest and for the protection of investors.

VI. Final Regulatory Flexibility Analysis

This Final Regulatory Flexibility Analysis has been prepared in accordance with the Regulatory Flexibility Act.²⁹² It relates to the amendments we are adopting that will require mutual funds to provide risk/return summary information to the Commission and on their Web sites in interactive data format and enable investment companies and other entities to submit exhibits through the voluntary program containing a tagged schedule of portfolio holdings without having to submit other financial information in interactive data format.

A. Need for the Rule

1. Submission of Risk/Return Summary Information Using Interactive Data

The main purpose of the amendments is to make risk/return summary information easier for investors to analyze while assisting in automating regulatory filings and business information processing. Currently, mutual funds are required to file their registration statements in a traditional format that provides static text-based information. We believe that providing the risk/return summary information these filings contain in interactive data format will:

- Enable investors and others to search and analyze the information dynamically;
- Facilitate comparison of mutual fund performance; and
- Provide an opportunity to automate regulatory filings and business information processing with the potential to increase the speed, accuracy, and usability of risk/return summary disclosure.

2. Changes to the Voluntary Program

The main purpose of the amendments to the voluntary program is to help us evaluate the usefulness to investors, third party information providers, funds, the Commission, and the marketplace of interactive data and, in particular, of submitting portfolio holdings information in interactive data format. We believe the changes to the voluntary program will enable us to further study the extent to which interactive data enhance the comparability of portfolio holdings information, the usefulness of interactive data for dissemination, and our staff's ability to review and assess the accuracy and adequacy of that data. The changes to the voluntary program also will help us assess the effect of

²⁹² 5 U.S.C. 604.

interactive data on the quality and transparency of portfolio holdings information, as well as the compatibility of interactive data with the Commission's disclosure requirements.

More specifically, we believe that the changes to the voluntary program will better enable us to study the extent to which interactive data will:

- Enable investors and others to search and analyze the information dynamically;
- Facilitate comparison of portfolio holdings among funds and other entities; and
- Possibly provide a significant opportunity to reduce the resources needed for data analysis.

In addition, we believe the changes to the voluntary program will enhance our ability to evaluate the:

- Impact on the staff's ability to review filings on a more timely and efficient basis;
- Use of interactive data for risk assessment and surveillance procedures; and
- Compatibility of interactive data with reporting quality, transparency, and other Commission reporting requirements.

B. Significant Issues Raised by Public Comment

In the Proposing Release, we requested comment on the number of small entity issuers that may be affected, the existence or nature of the potential impact and how to quantify the impact of the amendments. Commenters generally supported both the use of technology to better inform mutual fund investors and the Commission's goal of providing risk/return summary information in an interactive data format, but most commenters stated that requiring mutual funds to provide tagged risk/return summary information at this time is premature.²⁹³ Two commenters suggested that funds should be phased into the mandatory interactive data program based on fund size.²⁹⁴ As discussed more extensively below, however, we do not believe a phase-in or alternate procedures for small entities are warranted as such a phase-in would detract from the completeness and uniformity of tagged risk/return summary information. We continue to believe that the potential of interactive data for enhancing investors' access to mutual fund information justifies implementation of this initiative at this time.

²⁹³ See *supra* notes 55 and 56 and accompanying text.

²⁹⁴ See letters of Data Communiqué and Schnase.

C. Small Entities Subject to the Rules

For purposes of the Regulatory Flexibility Act, an investment company is a small entity if it, together with other investment companies in the same group of related investment companies, has net assets of \$50 million or less as of the end of its most recent fiscal year.²⁹⁵ Approximately 127 mutual funds registered on Form N-1A meet this definition.²⁹⁶ All of these mutual funds will become subject to the rules to require submission of risk/return summary information using interactive data. A smaller subset of these mutual funds may voluntarily submit tagged portfolio holdings information, but, because submitting portfolio holdings information will be voluntary, we anticipate that only mutual fund complexes with sufficient resources would elect to participate. To date, no small entity mutual funds have elected to participate in the current voluntary program.

D. Projected Reporting, Recordkeeping and Other Compliance Requirements

1. Submission of Risk/Return Summary Information Using Interactive Data

All mutual funds subject to the amendments are required to submit risk/return summary information to the Commission in interactive data format and, if they have a Web site, post the interactive data on their Web site. We believe that, in order to submit risk/return summary information in interactive data format, mutual funds in general and small entities in particular likely will need to prepare and then submit the interactive data by expending internal labor hours in connection with either or both of:

- Purchasing, learning, and using software packages designed to prepare risk/return summary information in interactive format; and
- Hiring and working with a consultant or filing agent.

We believe that mutual funds will incur relatively little cost in connection with the requirement to post the interactive data on their Web site because the requirement applies only to mutual funds that already have a Web site.²⁹⁷

2. Changes to the Voluntary Program

The voluntary program is designed to assist us in assessing the feasibility of

²⁹⁵ 17 CFR 270.0-10.

²⁹⁶ This estimate is based on analysis by the Division of Investment Management staff of publicly available data as of December 2007.

²⁹⁷ The internal labor and external costs required to comply with the rules we are adopting are discussed more fully in Sections III and IV above.

using interactive data on a broader basis. Experience with the current voluntary program indicates that the cost of submitting portfolio holdings information in interactive data format, the associated burden on the Commission's electronic filing system, and the possible effect of the proposed changes to the voluntary program on those entities that use the data from the Commission's electronic filing system will be minimal.

No registrant will be required to submit documents in interactive data format under the changes we are adopting to the voluntary program. The submission of portfolio holdings information in interactive data format will require a participant to tag the portfolio holdings information already provided in required disclosures and to submit exhibits to its filing. Volunteers may also need to purchase software or retain a consultant to assist in creating interactive data exhibits.²⁹⁸

E. Agency Action To Minimize the Effect on Small Entities

The Regulatory Flexibility Act directs us to consider significant alternatives that would accomplish the stated objective, while minimizing any significant adverse impact on small entities. In connection with the amendments, the Commission considered the following alternatives: (1) The establishment of different compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance and reporting requirements under the amendments for small entities; (3) the use of performance rather than design standards; and (4) an exemption from coverage of the amendments, or any part thereof, for small entities.

1. Submission of Risk/Return Summary Information Using Interactive Data

We believe that, as to small entities, differing compliance, reporting or timetable requirements, a partial or complete exemption from the requirements, or the use of performance rather than design standards would be inappropriate because these approaches would detract from the long-term completeness and uniformity of the interactive data format risk/return summary information database. Less long-term completeness and uniformity would reduce the extent to which the amendments will enable investors and others to search and analyze the information dynamically; facilitate

²⁹⁸ *Id.*

comparison of mutual fund information; and, possibly, provide an opportunity to automate regulatory filings and business information processing with the potential to increase the speed, accuracy, and usability of risk/return summary information disclosure. We note that all mutual funds, including small entities, are not required to comply with the new requirements until after January 1, 2011.²⁹⁹

2. Changes to the Voluntary Program

The purpose of the amendments is to help us evaluate the usefulness to investors, third-party information providers, mutual funds and other entities, the Commission, and the marketplace of interactive data and, in particular, of submitting portfolio holdings information in interactive data format. Submitting documents containing portfolio holdings information in interactive data format is entirely voluntary.

We have considered different or simpler procedures for small entities, but for interactive data to provide benefits such as ready comparability there cannot be alternative procedures in place for different entities. Similarly, in order to achieve the benefits of interactive data, use of a single technology is necessary. If we determine to require the filing of portfolio holdings information in interactive data format in the future, we will look to the results of the voluntary program to find alternatives to minimize any burden on small entities.

VII. Statutory Authority

The Commission is adopting the amendments outlined above under Sections 5, 6, 7, 10, 19(a), and 28 of the Securities Act [15 U.S.C. 77e, 77f, 77g, 77j, 77s(a), and 77z-3]; Sections 3, 12, 13, 14, 15(d), 23(a), 35A, and 36 of the Exchange Act [15 U.S.C. 78c, 78l, 78m, 78n, 78o(d), 78w(a), 78ll, and 78mm]; Sections 314 and 319 of the Trust Indenture Act [15 U.S.C. 77nnn and 77sss]; and Sections 6(c), 8, 24, 30, and 38 of the Investment Company Act [15 U.S.C. 80a-6(c), 80a-8, 80a-24, 80a-29, and 80a-37].

List of Subjects

17 CFR Parts 232 and 239

Reporting and recordkeeping requirements, Securities.

²⁹⁹In this regard, in Section II.H. of this release we note that the additional time is intended to permit mutual funds to plan for and implement the interactive data reporting process after having the opportunity to experiment with the voluntary program.

17 CFR Parts 230 and 274

Investment Companies, Reporting and recordkeeping requirements, Securities.

Text of Rule and Form Amendments

■ For the reasons set forth above, the Commission amends Title 17, Chapter II of the Code of Federal Regulations as follows:

PART 230—GENERAL RULES AND REGULATIONS, SECURITIES ACT OF 1933

■ 1. The authority citation for Part 230 continues to read in part as follows:

Authority: 15 U.S.C. 77b, 77c, 77d, 77f, 77g, 77h, 77j, 77r, 77s, 77z-3, 77sss, 78c, 78d, 78j, 78l, 78m, 78n, 78o, 78t, 78w, 78ll(d), 78mm, 80a-8, 80a-24, 80a-28, 80a-29, 80a-30, and 80a-37, unless otherwise noted.

■ 2. Amend § 230.485 by adding paragraph (c)(3) to read as follows:

§ 230.485 Effective date of post-effective amendments filed by certain registered investment companies.

(c) * * * (3) A registrant's ability to file a post-effective amendment, other than an amendment filed solely for purposes of submitting an Interactive Data File, under paragraph (b) of this section is automatically suspended if a registrant fails to submit and post on its Web site any Interactive Data File exhibit as required by General Instruction C.3.(g) of Form N-1A (§§ 239.15A and 274.11A of this chapter). A suspension under this paragraph (c)(3) shall become effective at such time as the registrant fails to submit or post an Interactive Data File as required by General Instruction C.3.(g) of Form N-1A. Any such suspension, so long as it is in effect, shall apply to any post-effective amendment that is filed after the suspension becomes effective, but shall not apply to any post-effective amendment that was filed before the suspension became effective. Any suspension shall apply only to the ability to file a post-effective amendment pursuant to paragraph (b) of this section and shall not otherwise affect any post-effective amendment. Any suspension under this paragraph (c)(3) shall terminate as soon as a registrant has submitted and posted to its Web site the Interactive Data File as required by General Instruction C.3.(g) of Form N-1A.

■ 3. Amend § 230.497 by adding a sentence at the end of paragraphs (c) and (e) to read as follows:

§ 230.497 Filing of investment company prospectuses—number of copies.

(c) * * * Investment companies filing on Form N-1A must, if applicable pursuant to General Instruction C.3.(g) of Form N-1A, include an Interactive Data File (§ 232.11 of this chapter).

(e) * * * Investment companies filing on Form N-1A must, if applicable pursuant to General Instruction C.3.(g) of Form N-1A, include an Interactive Data File (§ 232.11 of this chapter).

PART 232—REGULATION S-T—GENERAL RULES AND REGULATIONS FOR ELECTRONIC FILINGS

■ 4. The authority citation for Part 232 continues to read in part as follows:

Authority: 15 U.S.C. 77f, 77g, 77h, 77j, 77s(a), 77z-3, 77sss(a), 78c(b), 78l, 78m, 78n, 78o(d), 78w(a), 78ll, 80a-6(c), 80a-8, 80a-29, 80a-30, 80a-37, and 7201 et seq.; and 18 U.S.C. 1350.

■ 5. Further amend § 232.11 as published at 74 FR 6813, February 10, 2009, by revising the definition of "Related Official Filing" to read as follows:

§ 232.11 Definition of terms used in part 232.

Related Official Filing. The term Related Official Filing means the ASCII or HTML format part of the official filing with which an Interactive Data File appears as an exhibit or, in the case of a filing on Form N-1A, the ASCII or HTML format part of an official filing that contains the information to which an Interactive Data File corresponds.

■ 6. Further amend § 232.202 as published beginning at 74 FR 6813, February 10, 2009, by revising Note 4 to § 232.202 to read as follows:

§ 232.202 Continuing hardship exemption.

Note 4 to § 232.202: Failure to submit or post, as applicable, the Interactive Data File as required by Rule 405 by the end of the continuing hardship exemption if granted for a limited period of time, will result in ineligibility to use Forms S-3, S-8, and F-3 (§§ 239.13, 239.16b and 239.33 of this chapter), constitute a failure to have filed all required reports for purposes of the current public information requirements of Rule 144(c)(1) (§ 230.144(c)(1) of this chapter), and, pursuant to Rule 485(c)(3), suspend the ability to file post-effective amendments under Rule 485(b) (§ 230.485 of this chapter).

■ 7. Further amend § 232.401 as published at 74 FR 6814, February 10, 2009, by revising paragraph (a) to read as follows:

§ 232.401 XBRL-Related Document submissions.

(a) Only an electronic filer that is an investment company registered under the Investment Company Act of 1940 (15 U.S.C. 80a-1 *et seq.*), a “business development company” as defined in section 2(a)(48) of that Act, or an entity that reports under the Exchange Act and prepares its financial statements in accordance with Article 6 of Regulation S-X (17 CFR 210.6-01 *et seq.*) is permitted to participate in the voluntary XBRL (eXtensible Business Reporting Language) program. An electronic filer that participates in the voluntary XBRL program may submit XBRL-Related Documents (§ 232.11) in electronic format as an exhibit to: the filing (other than a Form N-1A (§ 239.15A and § 274.11A of this chapter)) to which the XBRL-Related Documents relate; an amendment to such filing, but, in the case of a Form N-1A filing, an amendment made only after the effective date of the Form N-1A filing to which the XBRL-Related Documents relate; or, if the electronic filer is eligible to file a Form 8-K (§ 249.308 of this chapter) or a Form 6-K (§ 249.306 of this chapter), a Form 8-K or a Form 6-K, as applicable, that references the filing to which the XBRL-Related Documents relate if such Form 8-K or Form 6-K is submitted no earlier than the date of that filing. The XBRL-Related Documents must comply with the content and format requirements of this section, be submitted as an exhibit to a form that contains the disclosure required by this section and be submitted in accordance with the EDGAR Filer Manual and, as applicable, one of Item 601(b)(100) of Regulation S-K (§ 229.601(b)(100) of this chapter), Item 601(b)(100) of Regulation S-B (§ 228.601(b)(100) of this chapter), Form 20-F (§ 249.220f of this chapter), Form 6-K or § 270.8b-33 of this chapter.

* * * * *

- 8. Amend § 232.401 by:
 - a. Removing “or” at the end of paragraph (b)(1)(iii);
 - b. Revising paragraph (b)(1)(iv);
 - c. Adding paragraph (b)(1)(v); and
 - d. Revising paragraph (d)(2), introductory text.

The addition and revisions read as follows:

§ 232.401 XBRL-Related Document submissions.

* * * * *

(b) * * *

(1) * * *

(iv) The risk/return summary information set forth in Items 2, 3, and 4 of Form N-1A provided that the filing is submitted prior to January 1, 2011, and, in the case of a Form N-1A filing that includes more than one series (as that term is used in rule 18f-2(a) under the Investment Company Act (§ 270.18f-2(a) of this chapter), a filer may include in mandatory content complete risk/return summary information for any one or more of those series; or

(v) If the electronic filer is an investment company registered under the Investment Company Act of 1940 (15 U.S.C. 80a-1 *et seq.*), a “business development company” as defined in section 2(a)(48) of that Act, or an entity that reports under the Exchange Act and prepares its financial statements in accordance with Article 6 of Regulation S-X (17 CFR 210.6-01 *et seq.*), *Schedule I—Investments in Securities of Unaffiliated Issuers* (§ 210.12-12 of this chapter).

* * * * *

(d) * * *

(2) The disclosures required by paragraph (d)(1) of this section must appear within the XBRL-Related Documents as a tagged data element and, as applicable, in:

* * * * *

■ 9. Further amend § 232.405 as published beginning at 74 FR 6814, February 10, 2009, by:

- a. Revising Preliminary Note 1;
- b. Revising paragraphs (a), (b) and (g); and
- c. Adding a sentence at the end of the Note to § 232.405.

The revisions and addition read as follows:

§ 232.405 Interactive Data File submissions and postings.

Preliminary Note 1. Sections 405 and 406T of Regulation S-T (§§ 232.405 and 232.406T) apply to electronic filers that submit or post Interactive Data Files. Item 601(b)(101) of Regulation S-K (§ 229.601(b)(101) of this chapter), paragraph 101 of the Information Not Required to be Delivered to Offerees or Purchasers of both Form F-9 (§ 239.39 of this chapter) and Form F-10 (§ 239.40 of this chapter), Item 101 of the Instructions as to Exhibits of Form 20-F (§ 249.220f of this chapter), paragraph B.7 of the General Instructions to Form 40-F (§ 249.240f of this chapter), paragraph C.6 of the General Instructions to Form 6-K (§ 249.306 of this chapter), and General Instruction C.3.(g) of Form N-1A (§§ 239.15A and 274.11A of this chapter) specify when electronic filers are required or

permitted to submit or post an Interactive Data File (§ 232.11), as further described in the Note to § 232.405.

* * * * *

(a) *Content, format, submission and posting requirements—General.* An Interactive Data File must:

(1) Comply with the content, format, submission and Web site posting requirements of this section;

(2) Be submitted only by an electronic filer either required or permitted to submit an Interactive Data File as specified by Item 601(b)(101) of Regulation S-K, paragraph 101 of the Information Not Required to be Delivered to Offerees or Purchasers of either Form F-9 or Form F-10, Item 101 of the Instructions as to Exhibits of Form 20-F, paragraph B.7 of the General Instructions to Form 40-F, paragraph C.6 of the General Instructions to Form 6-K, or General Instruction C.3.(g) of Form N-1A, as applicable, as an exhibit to:

(i) A form that contains the disclosure required by this section; or

(ii) If the electronic filer is not an open-end management investment company registered under the Investment Company Act, an amendment to a form that contains the disclosure required by this section if the amendment is filed no more than 30 days after the earlier of the due date or filing date of the form and the Interactive Data File is the first Interactive Data File the electronic filer submits that complies or is required to comply, whichever occurs first, with paragraphs (d)(1) through (d)(4), (e)(1), and (e)(2) of this section;

(3) Be submitted in accordance with the EDGAR Filer Manual and, as applicable, Item 601(b)(101) of Regulation S-K, paragraph 101 of the Information Not Required to be Delivered to Offerees or Purchasers of either Form F-9 or Form F-10, Item 101 of the Instructions as to Exhibits of Form 20-F, paragraph B.7 of the General Instructions to Form 40-F, paragraph C.6 of the General Instructions to Form 6-K, or General Instruction C.3.(g) of Form N-1A; and

(4) Be posted on the electronic filer’s corporate Web site, if any, in accordance with, as applicable, Item 601(b)(101) of Regulation S-K, paragraph 101 of the Information Not Required to be Delivered to Offerees or Purchasers of either Form F-9 or Form F-10, Item 101 of the Instructions as to Exhibits of Form 20-F, paragraph B.7 of the General Instructions to Form 40-F, paragraph

C.6 of the General Instructions to Form 6-K, or General Instruction C.3.(g) of Form N-1A.

(b)(1) *Content—categories of information presented.* If the electronic filer is not an open-end management investment company registered under the Investment Company Act of 1940, an Interactive Data File must consist of only a complete set of information for all periods required to be presented in the corresponding data in the Related Official Filing, no more and no less, from all of the following categories:

(i) The complete set of the electronic filer's financial statements (which includes the face of the financial statements and all footnotes); and

(ii) All schedules set forth in Article 12 of Regulation S-X (§§ 210.12-01—210.12-29) related to the electronic filer's financial statements.

Note to paragraph (b)(1): It is not permissible for the Interactive Data File to present only partial face financial statements, such as by excluding comparative financial information for prior periods.

(2) If the electronic filer is an open-end management investment company registered under the Investment Company Act of 1940, an Interactive Data File must consist of only a complete set of information for all periods required to be presented in the corresponding data in the Related Official Filing, no more and no less, from the risk/return summary information set forth in Items 2, 3, and 4 of Form N-1A.

* * * * *

(g) *Posting.* Any electronic filer that maintains a corporate Web site and is required to submit an Interactive Data File must post that Interactive Data File on that Web site by the end of the calendar day on the earlier of the date the Interactive Data File is submitted or is required to be submitted, and, if the electronic filer is not an open-end management company registered under the Investment Company Act of 1940, the Interactive Data File must remain accessible on that Web site for at least a 12-month period. For an electronic filer that is an open-end management investment company registered under the Investment Company Act of 1940, General Instruction C.3.(g) of Form

N-1A specifies the period of time for which an Interactive Data File must remain accessible on a company's Web site.

Note to § 232.405: * * * For an issuer that is an open-end management investment company registered under the Investment Company Act of 1940, General Instruction C.3.(g) of Form N-1A specifies the circumstances under which an Interactive Data File must be submitted as an exhibit and be posted to the company's Web site, if any.

PART 239—FORMS PRESCRIBED UNDER THE SECURITIES ACT OF 1933

■ 10. The authority citation for Part 239 continues to read in part as follows:

Authority: 15 U.S.C. 77f, 77g, 77h, 77j, 77s, 77z-2, 77z-3, 77sss, 78c, 78l, 78m, 78n, 78o(d), 78u-5, 78w(a), 78ll, 78mm, 80a-2(a), 80a-3, 80a-8, 80a-9, 80a-10, 80a-13, 80a-24, 80a-26, 80a-29, 80a-30, and 80a-37, unless otherwise noted.

* * * * *

PART 274—FORMS PRESCRIBED UNDER THE INVESTMENT COMPANY ACT OF 1940

■ 11. The authority citation for Part 274 continues to read in part as follows:

Authority: 15 U.S.C. 77f, 77g, 77h, 77j, 77s, 78c(b), 78l, 78m, 78n, 78o(d), 80a-8, 80a-24, 80a-26, and 80a-29, unless otherwise noted.

* * * * *

■ 12. Amend Form N-1A (referenced in §§ 239.15A and 274.11A) by adding a paragraph (g) to General Instruction C.3. to read as follows:

Note: The text of Form N-1A does not, and these amendments will not, appear in the Code of Federal Regulations.

FORM N-1A

* * * * *

GENERAL INSTRUCTIONS

* * * * *

C.

* * * * *

3.

* * * * *

(g) *Interactive Data File.*

(i) An Interactive Data File (§ 232.11 of this chapter) is required to be submitted to the Commission and

posted on the Fund's Web site, if any, in the manner provided by Rule 405 of Regulation S-T (§ 232.405 of this chapter) for any registration statement or post-effective amendment thereto on Form N-1A that includes or amends information provided in response to Items 2, 3, or 4. The Interactive Data File must be submitted as an amendment to the registration statement to which the Interactive Data File relates. The amendment must be submitted after the registration statement or post-effective amendment that contains the related information becomes effective but not later than 15 business days after the effective date of that registration statement or post-effective amendment.

(ii) An Interactive Data File is required to be submitted to the Commission and posted on the Fund's Web site, if any, in the manner provided by Rule 405 of Regulation S-T for any form of prospectus filed pursuant to rule 497(c) or (e) under the Securities Act [17 CFR 230.497(c) or (e)] that includes information provided in response to Items 2, 3, or 4 that varies from the registration statement. The Interactive Data File may be submitted with or up to 15 business days subsequent to the filing made pursuant to rule 497.

(iii) An Interactive Data File is required to be posted on the Fund's Web site for as long as the registration statement or post-effective amendment to which the Interactive Data File relates remains current.

(iv) An Interactive Data File must be submitted as an exhibit to Form N-1A, under paragraph (i) of this Instruction, or as an exhibit to the filing made pursuant to rule 497, under paragraph (ii) of this Instruction. The Interactive Data File must be submitted in such a manner that will permit the information for each series and, for any information that does not relate to all of the classes in a filing, each class of the Fund to be separately identified.

Dated: February 11, 2009.

By the Commission.

Elizabeth M. Murphy,

Secretary.

[FR Doc. E9-3359 Filed 2-18-09; 8:45 am]

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