

alleges that the Department of Commerce acted inconsistently with particular provisions of the *General Agreement on Tariffs and Trade 1994*, WTO Agreement on Anti-Dumping (“Anti-Dumping Agreement”), and *Agreement on Subsidies and Countervailing Measures* (“SCM Agreement”) when allegedly it (i) erroneously concluded that certain State-owned enterprises are “public bodies,” (ii) failed to determine whether such enterprises had been “entrusted or directed” to provide a “financial contribution,” (iii) erroneously concluded that a “benefit” had been conferred, and (iv) failed to demonstrate “specificity.”

China also alleges that the United States acted inconsistently with particular provisions of the Anti-Dumping Agreement and SCM Agreement in connection with the Department of Commerce’s use of a non-market economy (NME) methodology for the purpose of determining the existence and amount of alleged dumping under Article VI of the GATT 1994 and the AD Agreement, simultaneously with the determination of subsidization and imposition of countervailing duties on the same subject merchandise.

Finally, China alleges actions inconsistent with the Anti-Dumping Agreement and the SCM Agreement in connection with the Department of Commerce’s conduct of the underlying anti-dumping and countervailing duty investigations, including its failure to inform interested parties of certain issues and the use of adverse inferences and facts available.

#### Public Comment: Requirements for Submissions

Interested persons are invited to submit written comments concerning the issues raised in this dispute. Persons may submit public comments electronically to [www.regulations.gov](http://www.regulations.gov), docket number USTR–2008–0035. If you are unable to provide submissions by [www.regulations.gov](http://www.regulations.gov), please contact Sandy McKinzy at (202) 395–9483 to arrange for an alternative method of transmission.

To submit comments via [www.regulations.gov](http://www.regulations.gov), enter docket number USTR–2008–0035 on the home page and click “go”. The site will provide a search-results page listing all documents associated with this docket. Find a reference to this notice by selecting “Notice” under “Document Type” on the left side of the search-results page, and click on the link entitled “Send a Comment or Submission.” (For further information

on using the [www.regulations.gov](http://www.regulations.gov) Web site, please consult the resources provided on the Web site by clicking on “How to Use This Site” on the left side of the home page.)

The [www.regulations.gov](http://www.regulations.gov) site provides the option of providing comments by filling in a “General Comments” field, or by attaching a document. It is expected that most comments will be provided in an attached document. If a document is attached, it is sufficient to type “See attached” in the “General Comments” field.

A person requesting that information contained in a comment submitted by that person be treated as confidential business information must certify that such information is business confidential and would not customarily be released to the public by the submitter. Confidential business information must be clearly designated as such and the submission must be marked “BUSINESS CONFIDENTIAL” at the top and bottom of the cover page and each succeeding page. Any comment containing business confidential information must be submitted by fax to Sandy McKinzy at (202) 395–3640. A non-confidential summary of the confidential information must be submitted to [www.regulations.gov](http://www.regulations.gov). The non-confidential summary will be placed in the docket and open to public inspection.

Information or advice contained in a comment submitted, other than business confidential information, may be determined by USTR to be confidential in accordance with section 135(g)(2) of the Trade Act of 1974 (19 U.S.C. 2155(g)(2)). If the submitter believes that information or advice may qualify as such, the submitter—

- (1) Must clearly so designate the information or advice;
- (2) Must clearly mark the material as “SUBMITTED IN CONFIDENCE” at the top and bottom of the cover page and each succeeding page; and
- (3) Must provide a non-confidential summary of the information or advice.

Any comment containing confidential information must be submitted by fax. A non-confidential summary of the confidential information must be submitted to [www.regulations.gov](http://www.regulations.gov). The non-confidential summary will be placed in the docket and open to public inspection.

USTR will maintain a docket on this dispute settlement proceeding, accessible to the public. The public file will include non-confidential comments received by USTR from the public with respect to the dispute; if a dispute

settlement panel is convened or in the event of an appeal from such a panel, the U.S. submissions, any non-confidential submissions, or non-confidential summaries of submissions, received from other participants in the dispute; the report of the panel; and, if applicable, the report of the Appellate Body. Comments will be placed in the docket and open to public inspection pursuant to 15 CFR 2006.13, except confidential business information exempt from public inspection in accordance with 15 CFR 2006.15 or information determined by USTR to be confidential in accordance with 19 U.S.C. 2155(g)(2). Comments open to public inspection may be viewed on the [www.regulations.gov](http://www.regulations.gov) Web site by entering docket number USTR–2008–0035 in the search field on the home page.

**Daniel Brinza,**

*Assistant United States Trade Representative for Monitoring and Enforcement.*

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#### OFFICE OF PERSONNEL MANAGEMENT

[OMB Control No. 3206–0005]

**Submission for OMB Review; Comment Request for Revised Information Collection; Questionnaire for Non-Sensitive Positions, Standard Form 85 (SF 85); Questionnaire for Public Trust Positions, Standard Form 85P (SF 85P); Supplemental Questionnaire for Selected Positions, Standard Form 85PS (SF 85PS); Questionnaire for National Security Positions, Standard Form 86 (Sf 86); Continuation Sheet for Questionnaires SF 85, 85P, and 86, Standard Form 86a (Sf 86a); and Certification Statement for SF 86 (SF 86C)**

**AGENCY:** Office of Personnel Management.

**ACTION:** Notice.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13), this notice announces that the Office of Personnel Management (OPM) submitted to the Office of Management and Budget a request for review and clearance of the revised collection of information, Questionnaires for National Security, Public Trust, and Non-Sensitive Positions (OMB Control No. 3206–0005), which includes the following electronic, on-line collection instruments:

- Questionnaire for Non-Sensitive Positions, Standard Form 85 (SF 85);
- Questionnaire for Public Trust Positions, Standard Form 85P (SF 85P); and

- Questionnaire for National Security Positions, Standard Form 86 (SF 86).

This notice also announces that the Office of Personnel Management (OPM) submitted to the Office of Management and Budget a request to discontinue clearance of the Continuation Sheet for Questionnaires SF 85, 85P, and 86, Standard Form 86A (SF 86A), the Certification Statement for SF 86, Standard Form SF 86C (SF 86C); and the Supplemental Questionnaire for Selected Positions, Standard Form 85PS (SF 85PS), which were formerly included in the collection (OMB Control No. 3206-0005).

These information collections are completed by respondents for, or incumbents of, Government positions or positions for the Government under contract, or by military personnel. The collections are used as the basis for background investigations to establish that such persons are:

- Suitable for employment or retention in the position;
- Suitable for employment or retention in a public trust position;
- Suitable for employment or retention in a national security position; and
- Eligible for access to classified national security information.

We are discontinuing request for clearance of the SF 86A, SF 86C, and SF 85PS, and propose that these collections be eliminated. The SF 86A is currently used as a continuation of the form with which its use is associated and not for any unique purpose exclusive from the associated form. It is proposed that the SF 86A be eliminated as it is not necessary when e-QIP is used. Additionally, GSA has requested that the Standard Forms be available to customers in electronic format only. They will no longer be stocking the paper forms. The SF 86C is currently used in lieu of completing a new SF 86 to allow the individual to indicate that there have been no changes in the data provided on the most recently filed SF 86 or to allow the individual to easily provide new or changed information. The electronic format of the proposed SF 86 eliminates the need for a separate SF 86C. It is proposed that the SF 85PS be eliminated because the questions formerly on the SF 85PS now reside on the SF 85P.

The SF 85, SF 85P, and SF 86 are completed by both employees of the Federal Government and individuals not employed with the Federal

Government, to include Federal and military contractors. Federal employees are defined as those individuals who are employed as civilian or military personnel with the Federal Government. Non-Federal employees include members of the general public and all individuals employed as Federal and military contractors or individuals otherwise not directly employed by the Federal Government.

It is estimated that 47,700 non-Federal individuals will complete the SF 85 annually. Each form takes approximately 100 minutes to complete. The estimated annual public burden is 79,500 hours.

It is estimated that 98,700 non-Federal individuals will complete the SF 85P annually. Each form takes approximately 150 minutes to complete. The estimated annual burden is 246,750 hours.

It is estimated that 21,800 non-Federal individuals will complete the SF 86 annually. Each form takes approximately 150 minutes to complete. The estimated annual burden is 54,500 hours.

e-QIP (Electronic Questionnaires for Investigations Processing) is a web-based system application that currently houses electronic versions of the SF 85, SF 85P, and SF 86. This internet data collection tool provides faster processing time and immediate data validation to ensure accuracy of the respondent's personal information. The e-Government initiative mandates that agencies utilize e-QIP for all investigations and reinvestigations.

A variable in assessing burden hours is the nature of the electronic application. The electronic application includes branching questions and instructions which provide for a tailored collection from the respondent based on varying factors in the respondent's personal history. The burden on the respondent is reduced when the respondent's personal history is not relevant to a particular question, since the question branches, or expands for additional details, only for those persons who have pertinent information to provide regarding that line of questioning. As such, the burden on the respondent will vary depending on whether the information collection relates to the respondent's personal history.

Additionally, once entered, a respondent's complete and certified investigative data remains secured in the e-QIP system until the next time the respondent is sponsored by an agency to complete a new investigative form. Upon initiation, the respondent's previously entered data (except 'yes/no'

questions) will populate a new investigative request and the respondent will be allowed to update their information and certify the data. In this instance, time to complete the form is reduced significantly.

The 60-day **Federal Register** Notice was published June 23, 2008 (Volume 73, Number 121, pages 35421-35422). The following Federal agencies or agency organizations made comments during the public comment period: Social Security Administration, Joint Security and Suitability Reform Team, Department of Housing and Urban Development, Department of Health and Human Services, U.S. Agency for International Development, Department of Homeland Security, Central Intelligence Agency, Department of Transportation, Office of the Director of National Intelligence, Department of State, Department of State Mental Health Services, Federal Bureau of Investigation, Defense Personnel Security Research Center, Department of Energy, and internal commentators from the U.S. Office of Personnel Management (OPM). The vast majority of comments were from OPM internal commentators and focused on administrative issues related to the formatting of the instructions and questions on the former paper collection. Most comments from other agencies focused on changes to the collection of mental health treatment information relative to treatment resulting from service in a military combat environment.

Comments which most substantially affected the proposed revisions of the SF 85P and SF 86 were considered in light of the intent of Executive Order 13467 to align using consistent standards to the extent possible policies and procedures relating to suitability, contractor employee fitness, eligibility to hold a sensitive position, access to federally controlled facilities and information systems, and eligibility for access to classified information. As a result of reforms to investigative processes, the SF 85, SF 85P, and SF 86 were expanded to collect from the respondent more accurate and relevant information that is of investigative and adjudicative significance earlier in the investigative process, thus increasing the length of the collections. As a result of public comment, significant and substantial changes were made to the SF 85, SF 85P, and SF 86. Such changes to the SF 85 include revision to questions 9, 10, 17, 18, 21, and the addition of new questions 19, 20, and 22. These question numbers reflect renumbering to accommodate the addition of new areas of questioning. Changes to the SF

85P include revisions to questions 9, 10, 15, 17b, 18, 20c, 22, 23, 24, 25, 26 and the addition of questions 19, 20a, 20b, 21, 27, 28, and 29. Changes to the SF 86 include revisions to questions 19, 20a, 20b, 20c, 21, 22, 23, 24, and 29. Due to the extensive nature of the comments, they have been consolidated in a matrix and are available upon request.

For copies of this proposal, contact Mary-Kay Brewer on 703-305-1002, Fax 703-603-0576, or e-mail at [marykay.brewer@opm.gov](mailto:marykay.brewer@opm.gov). Please be sure to include a mailing address with your request.

**DATES:** Comments on this proposal should be received within 30 calendar days from the date of this publication.

**ADDRESSES:** Send or deliver comments to: Kathy Dillaman, Associate Director, Federal Investigative Services Division, U.S. Office of Personnel Management, 1900 E Street, NW., Room 5416, Washington, DC 20415, [SFRevisionComments@opm.gov](mailto:SFRevisionComments@opm.gov); and John W. Barkhamer, Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, 725 17th Street, NW., Room 10235, Washington, DC 20503.

**FOR INFORMATION REGARDING**

**ADMINISTRATIVE COORDINATION CONTACT:** Mary-Kay Brewer, Program Analyst, Operational Policy Group, Federal Investigative Services Division, U.S. Office of Personnel Management, 703-305-1002.

**Michael W. Hager,**  
*Acting Director.*

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## 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:* Rule 3a-8; SEC File No. 270-516; OMB Control No. 3235-0574.

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 a request for extension of the previously approved collection of information discussed below.

Rule 3a-8 (17 CFR 270.3a-8) of the Investment Company Act of 1940 (15 U.S.C. 80a) (the "Act"), serves as a nonexclusive safe harbor from investment company status for certain research and development companies ("R&D companies").

The rule requires that the board of directors of an R&D company seeking to rely on the safe harbor adopt an appropriate resolution evidencing that the company is primarily engaged in a non-investment business and record that resolution contemporaneously in its minute books or comparable documents.<sup>1</sup> An R&D company seeking to rely on the safe harbor must retain these records only as long as such records must be maintained in accordance with state law.

Rule 3a-8 contains an additional requirement that is also a collection of information within the meaning of the PRA. The board of directors of a company that relies on the safe harbor under rule 3a-8 must adopt a written policy with respect to the company's capital preservation investments. We expect that the board of directors will base its decision to adopt the resolution discussed above, in part, on investment guidelines that the company will follow to ensure its investment portfolio is in compliance with the rule's requirements.

The collection of information imposed by rule 3a-8 is voluntary because the rule is an exemptive safe harbor, and therefore, R&D companies may choose whether or not to rely on it. The purposes of the information collection requirements in rule 3a-8 are to ensure that: (i) the board of directors of an R&D company is involved in determining whether the company should be considered an investment company and subject to regulation under the Act, and (ii) adequate records are available for Commission review, if necessary. Rule 3a-8 would not require the reporting of any information or the filing of any documents with the Commission.

Commission staff estimates that there is no annual recordkeeping burden associated with the rule's requirements. Nevertheless, the Commission requests authorization to maintain an inventory of one burden hour for administrative purposes.

Commission staff estimates that approximately 500 R&D companies may rely on rule 3a-8. Given that the board resolutions and investment guidelines will generally need to be adopted only once (unless relevant circumstances

change),<sup>2</sup> the Commission believes that all the companies that rely on rule 3a-8 adopted their board resolutions and established written investment guidelines in 2003 when the rule was adopted. We expect that newly formed R&D companies would adopt the board resolution and investment guidelines simultaneously with their formation documents in the ordinary course of business.<sup>3</sup> Therefore, we estimate that rule 3a-8 will not create additional time burdens.

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 send an email to: [Shagufta\\_Ahmed@omb.eop.gov](mailto: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](mailto:PRA_Mailbox@sec.gov). Comments must be submitted to OMB within 30 days of this notice.

Dated: December 22, 2008.

**Florence E. Harmon,**  
*Acting Secretary.*

[FR Doc. E8-31085 Filed 12-30-08; 8:45 am]

**BILLING CODE 8011-01-P**

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## 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 12d2-1; OMB Control No. 3235-0081; SEC File No. 270-98.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995

<sup>2</sup> In the event of changed circumstances, the Commission believes that the board resolution and investment guidelines will be amended and recorded in the ordinary course of business and would not create additional time burdens.

<sup>3</sup> In order for these companies to raise sufficient capital to fund their product development stage, we believe they will need to present potential investors with investment guidelines. Investors would want to be assured that the company's funds are invested consistent with the goals of capital preservation and liquidity.

<sup>1</sup> Rule 3a-8(a)(6) (17 CFR 270.3a-8(6)).